

From the "Nova Brasília Favela" case to the "Jacarezinho Community" case: Police violence, mutilated citizenship and necropolitics



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ABSTRACT

In this article, cases of police violence are reported, repeatedly perpetrated in State police operations, under the justification of combating drug trafficking, in poor communities, in the midst of the so-called "war on drugs", with a deadly effect on individuals who even have passage through the police. Such police operations were prohibited, in the face of the Corona Virus Epidemic, by the decision of Minister Edson Fachin, in ADPF, however, they continued to be perpetrated, reaching communities that are not even consistent with the criminal practice of drug trafficking and have their dignity offended, as the materialization of the right to decent housing can be gauged by the respect that the State bestows on those it must treat as citizens. The approach methodology was inductive, starting from specific situations to general conclusions, the method of procedure was historical and descriptive, and the techniques used were bibliographical and documental, with the use of newspaper works and the internet. After three sections, it was concluded by understanding that the way of combating drug trafficking has been implemented as war, but who die are blacks, poor people and people in vulnerable and risk situations, stripped of citizenship and targets of true necropolitics.

Keywords: Police Violence, Drug Trafficking and Necropolítica.

1 INTRODUCTION

This research sought to analyze the deficiency of the Brazilian authorities in containing public security actions, usually perpetrated by the Military Police of the States, in poor communities, under the pretext of "war on drugs" and with a balance of violent actions, injured and dead people.

Such police actions would be using the discourse of drugs as a subterfuge, or even a smokescreen, to exterminate offenders of the criminal law, usurping their lives, so that they do not have access to the guarantees of modern procedural law and are heard by the judge-state?



The orientation for the analyses were two reference cases that included police violence and deaths in poor communities: the "Favela Nova Brasília" case and the "Jacarezinho Community" case. As will be seen, from the first to the second little has changed, despite the recognition of the violation of the fundamental human rights of poor people.

This violent action of police in places where poor people live, stripped of citizenship, attentive even in the face of the decisions of the highest courts, which makes us question, if it would be at stake, practices of necropolitics.

How are the Brazilian authorities acting to curb alleged acts of extermination? Are these structural deficiencies of the Brazilian institutionalism that should prevent the violation of human rights or, simply, the absence of political interest (indifference)?

In the first section, we refer to the "Favela Nova Brasília" case, in which Brazil not only ignored the observations raised by the Inter-American Commission on Human Rights, but was condemned by the Inter-American Court.

In the second section, police violence in *Humans Rights Watch* research, data that denote the country's deficiency in the protection of human rights, especially with regard to the death of poor individuals, during police operations, in communities.

In the third section, we deal with the current cases that occurred during the Corona Virus epidemic, actions carried out in flagrant disregard of the decisions of the Courts. Not only Recommendation n. 1/20, of the Inter-American Court of Human Rights, but also, the decision of Justice Edson Fachin, in ADPF 635.

Still, in a fourth section, we work on mutilated citizenship and necropolitics and concepts on the subject that explain the way police operations operate in communities.

To carry out this research, we used the method of inductive approach, focusing on the analysis of specific cases, seeking an adequate reflection on the performance of police officers.

As a method of procedure we used the history, rescuing previous and emblematic facts about police violence, and descriptive, to the extent that the data used were already collected. The bibliographic analysis was the technique employed, by the use of data presented in works already elaborated, documentary sources and newspaper articles, among others.

2 FAVELA NOVA BRASÍLIA

The emblematic case of unpunished police violence became known as Favela Nova Brasília, which occurred on 10/18/1994 and on 05/08/1995.

The balance of the police action was 26 extrajudicial executions, with cases of torture and acts of sexual violence, recorded in three women, two of them minors, by police officers (2015 decision of the IACHR).



On 05/18/1995, 13 people were killed, also male, being 4 adolescents (PIOVESAN, SIDDHARTA, 2020).

The official justification of the police action was: "resistance to the arrest resulting from the death of the opponents" and confronting the "drug trafficking", in the face of an armed group in which there was resistance followed by death.

The investigation was shelved in Brazil in 2009 because the crimes were time-barred (PIOVESAN, SIDDHARTA, 2020).

2.1 SUBMISSION TO THE INTER-AMERICAN HUMAN RIGHTS SYSTEM

The case was submitted to the Inter-American Commission on Human Rights (IACHR) on 11/3/1995 and on 7/24/1996 by the Center for Justice and International Law (CEJIL) and *Human Rights Watch Americas*.

Subsequently, the Institute for the Study of Religion was admitted by the Commission as a representative in the proceedings before the Commission (2015 IACHR decision).

The petitioners indicated the violations: 1.1,4,8 and 25 of the ACHR and at the stage of the proceedings, they alleged still others, such as: 1.1,4,5,7,8,11.1,11.2,11.3, 19 and 25 of the ACHR (PIOVESAN, SIDDHARTA,2020).

On 09/25/1988 and 02/22/2001, the Inter-American Commission on Human Rights issued Reports on the Admissibility of the cases denounced by different organizations, separately, but later they began to be processed jointly under the number 11566.

On 10/31/2011, the Commission issued Merit Report No. 141/11, concluding that the Brazilian State was internationally responsible.

The violated articles of both the American Convention on Human Rights and the Inter-American Convention to Prevent and Punish Torture and the Pará Convention were indicated. The violations indicated were appropriate to the victims.

The recommendations to the Brazilian State, which is briefly presented, dealt with the following issues:

- a) Conduct a thorough, impartial and effective investigation of the violations, and, within a reasonable time, be carried out by judicial authorities independent of the Police, taking into account the links between the violations of Rights Humans and lethal force used excessively by police;
- b) It should consider the possible omissions, delays, negligences and obstructions of justice caused by agents in the state.
- c) Immediately eliminate the practice of automatically recording police killings as "resistance to arrest";



- d) Eradicate impunity for police violence, in general, by establishing a control system making effective the duty to investigate in cases like this;
- e) Modernize and professionalize police forces, train police officers appropriately to effectively and efficiently treat people from the most vulnerable sectors of society, including children, women and favela residents, seeking to overcome the stigma that all the poor are criminals.
- f) The State shall take into account the United Nations Basic Principles on the Use of Force and Firearms by Officials Charged with Enforcing the Law and the United Nations Principles on the Effective Prevention and Investigation of Extralegal, Arbitrary or Summary Executions.

The Brazilian State was notified on January 19, 2012, to report on compliance with the recommendations within two months. After granting two postponements, the Commission determined that the State had not made progress toward meeting the recommendations.

2.2 SUBMISSION TO THE INTER-AMERICAN COURT

To obtain justice on 05/19/2015, the Commission on Human Rights submitted to the jurisdiction of the Court, the facts and violations of Human Rights then described in the Merit Report.

State actions and omissions that continued to occur after December 10, 1998, the date on which Brazil accepted the jurisdiction of the Court, were submitted.

On February 16, 2017, after following the procedure stipulated in the ACHR, the Inter-American Court of Human Rights ruled on the case, attributing responsibility to the Brazilian State for the violation of the following provisions: Article 8.1, referring to judicial guarantees of due diligence and reasonable time, Article 25, referring to the right to judicial protection, and Article 5.1, referring to the right to personal integrity, all provided for in the ACHR; Articles 1, 6, and 8 of the Inter-American Convention to Prevent, Sanction and Eradicate Violence against Women, known as the Convention of Belém do Pará (CBP), among others.

Among the reparation measures, the implementation of reparation measures to the victims and homage to the victims, to prevent new occurrences, such as the reduction of police lethality:

With regard to reparation measures, the Inter-American Court ordered the Brazilian State, including: initiating or reactivating an investigation into the deaths that occurred; investigation into the facts of sexual violence; provide psychological and psychiatric treatment, with the free supply of medicines needed by victims, publish annually an official report with data on deaths caused during police operations in all states of the country regarding each incident that results in the death of a civilian or a police officer; to carry out a public act of recognition of international responsibility in relation to the facts, and two plaques in memory of the victims should be inaugurated in the main square of the Nova Brasília Favela; establish the necessary normative mechanisms so that, in the event of alleged deaths, torture or sexual violence resulting from police intervention, the investigation is delegated to an independent body different from the public force involved in the incident; adopt the necessary measures for the State of Rio de Janeiro to establish goals and policies to reduce lethality and police violence;



standardize the expression "bodily injury or homicide resulting from police intervention" in police or prosecutorial reports and investigations, abolishing the concept of "opposition" or "resistance" to police action; and pay compensation for immaterial damage and reimbursement of costs and expenses (PIOVESAN, SIDDHARTA, p.101,2020).

After one year, there was no full execution of the sentence, which explains why it is unusual for police officers to be convicted of excessive and disproportionate violence, a rare case in which there is compensation to victims.

Non-compliance, in addition to denoting indifference, does not encourage behavioral change through strategies such as education to achieve such results.

3 POLICE VIOLENCE

3.1 THE *HUMAN RIGHTS WATCH REPORT*

In 2009, *Human Rights Watch* published a report called "Lethal Force; Police violence and Public Security in Rio de Janeiro and São Paulo accounting for the numerous deaths in police operations, in which the authorities claimed opposition or resistance, and how, even today, in the states of Rio de Janeiro and São Paulo, the higher number of cases.

In almost all of the homicides caused by police officers during working hours in Rio and São Paulo, the officers involved reported that their shots were acts of self-defense, claiming to have fired only in response to shots fired by alleged criminals. In São Paulo, these cases are generically designated as "resistance followed by death" and in Rio as "autos de resistência". Given that police officers in both states often face a real threat of violence from members of organized crime, it is likely that many of these "resistances followed by death" were the de facto result of legitimate police use of force. Many cases, however, clearly were not (HRW, 2019).

From 2003 to 2009, the year of the Human Rights Watch Report (2009), police in Rio de Janeiro and São Paulo together killed more than 11,000 people.

The investigation into such deaths, officially justified as acts of resistance or opposition to police authority, are considered as extrajudicial executions.

In addition, it was found that there are police officers involved in such operations, belonging to death squads or, in Rio de Janeiro, belonging to armed and illegal militias.

In the aforementioned Report it is noted that the investigators and the police have a tendency to cover up the true facts that led to the murders preventing these, in their majority, from being punished. It is imperative to note that the investigations are carried out by the Police itself, which in itself generates an absence of impartiality necessary to survey the facts with exemption.

In this way, the situation of impunity is unlikely to be changed. How could the Public Prosecutor's Office and the Judiciary change the situation of impunity if the conduct of the investigation is riddled with bias?

Data collected by Human Rights Watch (2018) report that:



Violence reached a new record in Brazil, with about 64,000 homicides in 2017. Police solve only a small percentage of these homicides. Extrajudicial killings by police fuel the wave of violence. The fragile state control of many prisons facilitates recruitment by criminal factions. [...]

While some killings by police occur in self-defense, reports by Human Rights Watch and other organizations show that others are extrajudicial executions. In São Paulo, the police ombudsman examined hundreds of police killings in 2017, concluding that there was excessive use of force in three-quarters of cases, sometimes against unarmed people.

In 2021, as in all previous years, Human Rights Watch found that extrajudicial killings of police officers, torture of detainees, and abuse of children and adolescents in conflicts with the law demonstrate that human rights violations have become chronic.

3.2 NATIONAL PUBLIC SAFETY FORUM 2020

When analyzing "The growth of deaths resulting from police interventions in Brazil", Bueno, Pacheco and Nascimento, 2020, made several considerations on the subject, which well portray the fact that in Brazil there is not a minimum of change in relation to the perpetration of police violence. Initially, considering that it is the police officer who has the duty to enforce the Law to guarantee public order, even if, in specific cases, he has to use force.

However, the use of force should stick to national and international regulations on the subject as mentioned below, as stated in the article by Bueno, Pacheco and Nascimento (2020, pg. 86):

1. Interministerial Ordinance 4,226, of December 31, 2010, provides for the use of force by public security agents of the Federal Police, Federal Highway Police, Federal Railway and National Force; Law 13,060, of December 22, 2014, regulates the use of instruments of lesser offensive potential by public security agents. Most state police also have standard operating procedures (SOPs) and/or protocols for the use of force, approach, and use of firearms, such as the Giraldi Method of Defensive Shooting, created by Col. PM Nilson Giraldi in São Paulo in the 1990s. 2. The international principles guiding the use of force and firearms are expressed in the following documents: 1) Code of Conduct for Law Enforcement Officials, adopted by the United Nations General Assembly in its Resolution 34/169 of 17 December 1979; 2) Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted at the XVIII United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana, Cuba, from August 27 to September 7, 1999; (3) Guiding Principles for the Effective Application of the Code of Conduct for Law Enforcement Officials, adopted by the Economic and Social Council of the United Nations in its resolution 1989/61 of 24 May 1989; and 4) Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the UN General Assembly at its XL Session, held in New York on 10 December 1984, and promulgated by Decree No. 40 of 15 February 1991. As the documents were approved during the United Nations Assembly, the binding of the member states is automatic and they start to compose the international norms for the protection of human rights (PINC, 2011).

The authors report above, the importance of the principles that guide the use of force that are: legality, necessity, proportionality, moderation and convenience, meaning that in addition to the standards established for police procedures in international treaties and national regulations must meet the principles that guide the conduct of the use of force has been a challenge in several police in Brazil



and the world, either because the internal control and supervision instances fail, or because the external control of police activity is historically weak", to meet the precepts stated above (BUENO, PACHECO, NASCIMENTO,

2020).

The caveat is made that there are cases of legitimate use of police force, but these were "mixed with serious procedural errors and summary executions without us being able to clearly differentiate each of these episodes" (IDEM, p. 87).

The increase in deaths was significant when comparing the first half of 2019 with that of 2020, from 3002 to 3181, respectively, despite the fact that we are in 2020, experiencing an epidemic.

Those who die in the police confrontations are young, male and black, as the authors report on the deaths that occurred in 2019:

[...] The victims of police interventions are very young: 23.5% were between 15 and 19 years old when they were killed, 31.2% were in the age group between 20 and 24 years old, and 19.1% were between 25 and 29 years old. In all, 74.3% of the victims of police interventions were young people aged at most 29 years, a percentage much higher than the average of other homicides, in which young people make up 51.6% of the victims. Regarding race/color, 79.1% of the victims of police interventions that resulted in death were black and brown, indicating the underrepresentation of blacks among the victims of police lethality. This percentage is higher than the national average verified in the total of intentional violent deaths, in which 74.4% of all victims are black. It is noteworthy that a similar pattern was found among police victims of homicide and robbery, and 65.1% of the security agents murdered in the last year were black and brown (BUENO, PACHECO E NASCIMENTO, 2020, p.90).

The authors assigned above cite Cano (2019) to indicate work prepared by the author, cited above, who analyzed "the racial compositions of the victims of police interventions of both injured and dead, separating the cases inside and outside the favelas" (IDEM).

Many police operations generate deaths, these are common in favelas or in peripheral areas, where young people are executed in spite of the rules governing police behavior being clear as to the desirable behavior.

We can cite some cases as an example of police brutality:

João Pedro Mattos Pinto died on May 18, at the age of 14, while playing with his cousins in the backyard of the family home. Police jumped the wall and shot the teenager as part of a joint operation of the Federal and Civil police in the Salgueiro Complex, in São Gonçalo.ⁱ
Mizael Fernandes da Silva died on July 1, at the age of 13, when police officers raided his family's home and shot him, who was sleeping in his room.ⁱⁱ
Rogério Ferreira da Silva Júnior was riding a friend's motorcycle near his home on his 19th birthday in August this year, when he was hit by gunfire from Military Police agents who approached him. Rogério was unarmed and had obeyed the police stop order.ⁱⁱⁱ

The Police Operation in Complexo do Alemão was carried out on 06/27/2007 in Rio de Janeiro, had 2600 men, involved the Military Police, Civil and Federal Police, men of the Navy, Army, Air Force and, still, the National Public Security Force, was initiated due to the fact that in the occupation



of the Favela of Oswaldo Cruz, on 02/05/2007, two police officers were killed by traffickers from Complexo do Alemão. The balance was 19 dead, 13 bodies collected by the Police and 6 found in a van left in front of the local Police Station (in Penha). Wounded were 7 by stray bullets, 1 police officer and 5 traffickers, it was found that 11 dead had no connection with Trafficking (WIKIPEDIA, 2007)

Vera Malaguti Batista (2010) in an interview granted to the Polytechnic School of Health Joaquim Venâncio da Fiocruz reports:

The totalizing control over poor communities within the war paradigm, which is a model widely used by the United States in the occupations it promotes. And it is also a model used by Israel in its treatment of the Palestinian state. This means that there is a trampling of guarantees, poor areas are transformed into territories of exception, where they do not govern rights and guarantees are completely superfluous because they work with the ideology of national security. It is what the great Argentine jurist Raúl Zaffaroni calls the criminal law of the enemy. The government of Rio has the police that kills the most in the world, it has all the ideology of confrontation. I thought the federal government's policy was different, even though I had criticism of it as well. But now I realize that the policies are coordinated even, the war paradigm is common, including with the use of the armed forces in public security, which is a very controversial thing in the discussion in the war colleges, for example. The U.S. military never enters as police. Except in very special cases, as in a very one-off situation in 1993, and they leave immediately. But they would very much like the armed forces of Latin America to enter this role because it causes them to fall apart, as is the case in Mexico, where these actions of the Armed Forces are a complete fiasco, as is a complete fiasco the war on drugs. But it is a fiasco in relation to the objectives it sets itself, because in the war industry it is a spectacle: it sells tanks and weapons to both sides. Capitalism is completely fueled by wars. If we look at the whole history of capitalism, the history of the United States itself, we realize that in economic crises war raises the economy (g.n.). ^{iv}(ESPJFIOCRUZ, 10/07/2021)

In the same interview Vera Malaguti Batista observes:

The federal discourse frighteningly is being this, I didn't expect that. I consider myself a sad person because I thought this would have a different direction, but I see that it is this Bush-era garbage that is being sold to us as public safety technology, guns, feelings of hatred, of truculence. I think we're pretty bad. The way to stick is also that of media like you, which have an ability to leak information and create a qualified audience, because the mass has made a sinister education in recent times (IDEM).

The Public Security Policy, in the fight against drugs, is mandated by the one applied in the United States. Which has been going on for many years.

4 DISRESPECT FOR THE INTER-AMERICAN SYSTEM AND THE SUPREME COURT'S DECISION ON POLICE OPERATIONS IN THE FACE OF THE EPIDEMIC

In the years 2020 and 2021, in which the Coronavirus epidemic hit the world population, perhaps it will be considered as one of the most serious health crises in the world, represented by the COVID-19 epidemic, not without purpose the Inter-American Commission on Human Rights, issued Resolution No. 1/2020, approved by the IACHR on April 10, 2020, called: Pandemic and Human Rights in the Americas.



The Resolution on the Americas recalls that this is a region where the greatest inequality, social disparities, lack of sanitation, drinking water, food shortages, environmental contamination, inadequate housing, among others, and still victim of exacerbated violence, for reasons of race, gender, ethnicity and, in addition, a high degree of corruption and impunity. It also noted the practice of disproportionate use of force in case of the use of the right to protest and other comments that unfortunately reflect our country (RS 1/20/IACHR).

For the Inter-American Commission on Human Rights, in the region of the Americas, it is difficult to protect populations due to limitations in health policies and measures and economic capacity (IDEM).

Regarding the containment measures, he observes that these suspend and restrict rights, declare a state of exception, a state of emergency, a catastrophe due to a public calamity, a health emergency, which occurs in various forms, presidential decrees or norms, and also clarifies that other measures have been envisaged, such as those that restrict freedom of expression, the right of access to public information, personal freedom, among others that it reports (RS1/20, IACHR).

Faced with such a context portrayed by the Inter-American Commission on Human Rights and the possibility of disrespecting the need to protect those most vulnerable, it is that we understand as significant ADPF 635 MC-TPI-Ref./RJ – Rio de Janeiro, initiated by the Brazilian Socialist Party – PSB in ADPF 635 requested a precautionary measure and sought the protection of the lives of residents in favelas.

The designated rapporteur was Minister Edson Fachin who decided on the precautionary request as follows:

Judging body: Full Court
Rapporteur: Ms EDSON FACHIN
Judgment: 08/18/2020
Publication: 10/21/2020

After the vote of Justice Edson Fachin (Rapporteur), who was partially aware of the present allegation of non-compliance with a fundamental precept to : 1. Reject, for the time being, the request for a precautionary measure, with regard to the order to determine the State of Rio de Janeiro to prepare and forward to the STF, within a maximum period of 90 (ninety) days, a plan aimed at reducing police lethality and controlling human rights violations by the security forces fluminenses, which contains objective measures, specific schedules and forecast of the resources necessary for its implementation, contained in the item (STF).

In the judgment of ADPF 635 by the Full Court of the STF, it was decided that:

Judging body: Full Court
Rapporteur: Ms EDSON FACHIN
Judgment: 05/08/2020
Publication: 09/11/2020
Syllabus

Syllabus: REFERENDUM IN INCIDENTAL MEASURE IN ALLEGATION OF NON-COMPLIANCE WITH FUNDAMENTAL PRECEPT. CONDUCTING POLICE OPERATIONS IN THE COMMUNITIES OF RIO DE JANEIRO DURING THE GLOBAL



PANDEMIC. MORA OF THE STATE IN COMPLIANCE WITH THE DECISION OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS. LEGAL PLAUSIBILITY. FACTUAL CONTEXT IN WHICH RESIDENTS STAY LONGER AT HOME. REPORTS OF OPERATIONS THAT REPEAT THE PATTERN OF VIOLATION ALREADY RECOGNIZED BY THE COURT

INTER. PERICULUM IN MORA. GRANT OF

MEASURE. 1. The delay in complying with a determination issued by the Inter-American Court of Human Rights is a basis that supports the plausibility of the thesis that the State of Rio de Janeiro fails to promote public policies to reduce police lethality. 2. The stay at home of residents of the communities of Rio de Janeiro as a result of the international pandemic, as well as the reports of new operations that apparently repeat the patterns of previous violations, substantiate the fear that the measure, if granted only at the end of the process, will be ineffective. 3. Precautionary measure granted to determine: (i) that, under penalty of civil and criminal liability, police operations are not carried out in communities in Rio de Janeiro during the COVID-19 epidemic, except in absolutely exceptional cases, which must be duly justified in writing by the competent authority, with immediate communication to the Public Prosecutor's Office of the State of Rio de Janeiro responsible for the external control of police activity; and (ii) that, in extraordinary cases of carrying out these operations during the pandemic, exceptional care is taken, duly identified in writing by the competent authority, so as not to endanger even greater population, the provision of public health services and the performance of humanitarian aid activities (STF).

The measure had an effect, only momentarily, because September and October 2020, violent action began to occur in cases in which exceptional situations were not configured, and police lethality is again the rule (FERNANDES, LOPES E SOARES, 2021).

Our country has not adopted any measures related to the recommendations established in the Favela Nova Brasília case, as previously discussed, so it seems to us an authorization for police lethality to continue and that mainly affects the (vulnerable) residents of the State of Rio de Janeiro and São Paulo, where most cases occur.

It is like a monologue, protests, communities organize and complain, the media denounces, jurists pronounce on such approaches in short, it is no use, the absence of the adoption of national and international norms on the behavior to be adopted by police officers continue to be "dead letters²" in the conduct of police operations when it comes to poor people, The studies demonstrate this, as cited in the Human Rights Watch Reports and in the article "The growth of deaths resulting from police interventions in Brazil" by Bueno, Pacheco, and Nascimento (2020, pg.86 to 93), in the publication of the Public Security Forum in 2020.

Despite the decision of the STF, above enunciated was the police operation carried out in the Jacarezinho Favela and can be considered as an announced occurrence, in fact only the location was not known, since the disregard for determinations of the Inter-American Court of Human Rights of 2017 and the decision of the Supreme Court Plenary, so current in the context of the epidemic had already been disrespected as reported below:

Between September and October 2020, the numbers grew again vertiginously and reached historic marks at the beginning of this year, noting that the violent action of state agencies in Rio de Janeiro communities has not occurred in situations



"Absolutely exceptional." Police lethality has once again become the norm

and state agencies have been using subterfuge to justify the continuity of operations, reproducing the empty and anti-democratic rhetoric of the "state of war" (FERNANDES, LOPES, SOARES, 2021).

4.1 UNDERSTANDING THE CASE OF THE "JACAREZINHO COMMUNITY" AND "VILA CRUZEIRO"

The Secretariat of Civil Police published that they were based on intelligence and investigation information and that "the criminals reacted strongly. Not only to flee, but with the aim of killing," they noted that the gangs impose a war scenario that must be fought so that criminal organizations are not strengthened. They were characterized as "headquarters" of the red command faction (BRASIL DE FATO, 2021).

The police operation was considered the deadliest in the last 15 years. For experts the number of victims proves that it was a massacre: 28 dead being 27 civilians and a military, two subway passengers who were passing through the Triagem station were injured (IDEM).

The Civil Police notes that the operation was communicated and approved by both the Public Prosecutor's Office and the Court of Justice:

On this, Rodrigo Oliveira, Undersecretary of Planning and Operational Integration of the Civil Police, said that all the requirements established by the STF to carry out the operation were met: "It was not an exclusive diligence of the Civil Police, but was submitted to the scrutiny of the Public Prosecutor's Office and, later, to the Judiciary. And these 21 arrest warrants came, so it is crystal clear that there was consent received" (BRASIL DE FATO, 2021).

The Human Rights Commission of the OAB of Rio de Janeiro, through its President Álvaro Quintão, according to Brasil de Fato, told Jornal Nacional that there were indeed victims with passage through the police, some would have already served time and no longer serve. The journal also reports that only two people had links to trafficking and, according to the Public Prosecutor's Office, only three were reported for drug trafficking (BRASIL DE FATO, 2021).

El País news reported that the operation involved 200 police officers and was started before seven o'clock. The first victim was a police officer who tried to remove the barricades put up by the traffickers. Residents become hostages in situations like this protect themselves as best they can and in the community bursts from helicopters, grenades and rifle fire. After seven hours bodies collected wrapped in sheets and the scenes altered.

The Jacarezinho massacre, which took the lives of 28 people last Thursday in the North Zone of Rio de Janeiro, continues to generate political and judicial developments. Pressured by public opinion and human rights entities, Rio's Public Prosecutor's Office, whose constitutional attribution is to carry out external control of police activities, announced on Tuesday the formation of a task force to investigate the massacre. The group should last four months, which may be extendable, and should investigate the allegations of executions and police abuse, the death of agent André Frias and the attempted murder against five other police officers, two



attempted murders of subway passengers and a possible irregularity in the removal of the bodies (EL PAÍS, 2021)

About the demonstrations Brasil de Fato published in 2021:

In a joint statement, Amnesty International in Brazil, Global Justice, the Marielle Franco Institute and the Unified Black Movement called the operation a "massacre." In the same vein, residents of Jacarezinho and human rights defenders held demonstrations on Saturday night (7) in the capital of Rio de Janeiro. (g.n)

The Minister of the STF Edson Fachin, asked the Attorney General's Office to investigate the case. In his request he stated that "the facts reported seem serious and, in one of the videos, there are indications of acts that, in theory, could constitute arbitrary execution" (Brasil de Fato, 2021).

On 08/05/2021, João Batista Damasceno expressed himself as follows in a report by the newspaper O Dia:

Core's incursion into Jacarezinho led to 28 deaths on the last day 6. It is the deadliest police operation in the history of Rio de Janeiro. There is doubt whether there was effective confrontation and exercise of self-defense. Police precedents in several other instances is the basis of doubt. This time it was not Bope, nor the BPChq whose commander claimed, in 2019, the authorship of 15 deaths in Morro do Fallet improperly attributed to another police unit.

For Damasceno the police cannot be the only one responsible for the violence they practice, for this "Those who think for and formulate the justifications are equally responsible" (O Dia, 2021).

[...] The issue of public security is complex, difficult to resolve, and has a direct relationship with the very nature of the capitalist regime, which generates structural exclusion and concentration of wealth - but the left needs to face the issue with courage, propose measures and compete politically with the narrative of the extreme right bolsonarista (BRASIL DE FATO, 2021).

However, it was not only this operation that occurred during the pandemic in Rio de Janeiro, another of equal proportion to that of Jacarezinho was imposed on the community of Vila Cruzeiro, this had several police operations practiced in its territory, totaling 42 deaths, in one year, data pointed out by the Fogo Cruzado Institute in partnership with Geni (Study Group of New Illegalisms) of UFF (Fluminense Federal University).

The average is one massacre every three months, with ten deaths (Tráfico da Vila Cruzeiro was the target of 4 massacres, with 42 deaths in 1 year, according to UOL. The Police Operation in Vila Cruzeiro left a balance of 23 dead.

This is still with the country battling a new strain of the Corona virus that has hit Rio de Janeiro significantly. There were 26 people killed, no police officers were hit.



5 MUTILATED CITIZENSHIP AND NECROPOLITICS

Milton Santos, wrote "Citizen's Space" as a contribution, before the promulgation of the Constitution of 1988. For the geographer Milton Santos, there is no citizenship in Brazil, there is a "mutilated citizenship".

The author innovated the field of geography, presenting the so-called "citizen geography", by considering space, including the man who is inserted in it, who inhabits it and who produces it. The environment would thus be a means and at the same time, a product, since it stems from social relations.

According to Milton, in Brazil, being inserted or close to certain spaces represents enjoying privileges, in a reality in which the use of territory does not seek the development of personality, but of consumer relations.

Would this occur if the targets of the operations were rich people who inhabit gated communities?

It is known that the answer is no, which makes us realize that it is a question of citizenship, and equal access to rights, such as decent housing.

For Milton, in a democracy, everyone should be represented in the public sphere, including minorities, and if there isn't, you have that democracy mutilated.

Despite the news, the actions of the authorities, the national justice, the Supreme Court, and even, at the international level, the discussion by the main human rights protection bodies of the Inter-American System, encompassing an international sentence condemning Brazil, there was no respect for the condition of citizens, of the direct and indirect victims in these incursions of the police in poor communities.

The continuity of this type of truculent action of the police, based on the "war on drugs", in poor communities, despite all the actions of the authorities to prevent them, at all levels - Courts, STF, Inter-American Court - denotes that such actions represent something beyond disability or even indifference, but rather, a strategy of eliminating these people who represent a risk to market society.

Seen as a strategy, such actions refer to the concept of "necropolitics" coined by Mbembe (2018). This concept stems from Foucault's (1999) notion of "biopower", which would be a technology of power aimed at "making live".

Biopower, according to Foucault, had as its context of emergence "the discovery of society", a moment in which the forces of power, in liberalism, begin to enrich themselves from the exploitation of human labor power, replacing the practices of mercantilism, at the birth of capitalism.

It was, therefore, a technology of investment in the living and healthy body, in the improvement of the human species, in the individual and collective planes, to normalize and docilize. However, for those who did not conform to the standards of normality necessary in the period of the eruption of



liberalism, the practices of biopower reserved strategies of death, called "letting die", as are examples, asylums, prisons, orphanages.

In the transition to neoliberalism, there was a change in social goals. The forces of power seek to shape society in the form of an economic game of companies. With the new objective, the one who does not have the biological component necessary to act as a company, as human capital, is exposed to the schemes of death.

For Vera, ¹incarceration is directly related to the development of capitalism, "prison and punitive power appear symbiotically associated with the emergence of the state in the historical development of capitalism. There is no prison without a factory, there is no factory without a prison," to paraphrase Georg Rusche.

In the neoliberal phase of capitalism, we see the increase in penal social control as a strategy to contain the effects of social injustice, ranging from daily surveillance to extermination:

If post-industrial capitalism, financial or neoliberal video, has abandoned correctional illusions and "re" ideologies to throw itself into mass incarceration, the constitution of poor neighborhoods in open-air fields, the increase of police brutality and extermination in the cities of poor countries, and the spread of reticular surveillance over everyday life, Isn't it time we questioned the punitive power itself?

The "necropolitics" is aimed at "making die", and stripping of citizenship is one of the ways to reach expedients of death, which in Brazil, are aimed at young people, black, with little education, minorities and vulnerable, as shown by the data of Public Security, which begins with the violent attacks in the neighborhoods where they live and goes through the sending to the real dungeons.

In previous work, we have even verified how the Brazilian Prison System violates individual rights and guarantees on a daily basis, in a way that the Federal Supreme Court has already recognized (ADPF 347/2015), the existence of an 'unconstitutional state of affairs' that includes mostly young, poor and Afro-descendant people.

Similarly, such recognition – that approximately 750,000 people live in a state of exception in relation to human rights – has not brought about any change in the performance of state policy or incarceration practices, after all, the nature of an institute as the unconstitutional state of affairs is "[...] strategic filling aimed at preventing the abolition of prison in defense of the market society" (MOTA; MOTA, 2021, p. 453).

In the words of Ribeiro (2021), "the perverse prognoses" were realized, that is, an increase in the prison population that made Brazil the fourth country in prison population in the world and this, as expected, consists of poor, black and peripheral young people. For Nilo Batista, the policy of

¹ Vera Malaguti Batista, in a Conference delivered at the 41st CFESS/CRESS Decentralized Meeting, in the Southeast Region, in Rio de Janeiro, on August 3, 2012, problematized the elements of a new political agenda, which is formed around the concern with the effects of the neoliberal crisis in Latin American countries.



combating drugs can be called "Criminal Policy with bloodshed". This is what we see in such police operations (1997).

Roberta Duboc Pedrinha, (2006, p.5496) manifests herself on the war on drugs, deciphering discursive matrices: the Doctrine of National Security and the law and order movement:

Criminal drug policy has adjusted to the metaphor of war. The speeches given began to articulate the notion of fighting the enemy, which must be exterminated, with the endorsement of society. The politics of war was strengthened in Brazil by a triple ideological base, the ideology of National Defense, complemented by the National Security Doctrine and the Law and Order Movements.

In genealogical terms, the production of the war-arms discourse of the War on Drugs was the product of an alignment with the conservative US power forces of infiltration provided by the coup d'état in 1964:

It occurred, since the mid-70s and early 80s, in Brazil, during the period of the military dictatorship, through an alignment with the American discourse. The war on drugs came, especially, after the collapse of the cold war. It represented the displacement of the military apparatus and the continuity of the manufacture of weapons.

Faced with such conditions, Vera cries out for new horizons:

Readers of Loïc Wacquant, it is now up to us to set a new political agenda. The conjuncture now is one of crisis of the neoliberal paradigm in the Americas, with singular and sovereign experiences ranging from Chavez's Venezuela to Obama's United States. It seems that our primary task is to deconstruct the "subjective adherence to barbarism" and to propose new horizons of sociability and the construction of new collective spaces.

6 FINAL CONSIDERATIONS

The Policy to Combat Drugs in our country is treated as a war operation, where the largest states, Rio de Janeiro and São Paulo are responsible for the largest number of deaths occurred in such operations.

Nothing holds back *the truculent modus operandi* of the police, the trial by the Inter-American Court of Human Rights in the case of the Nova Brasília Favela took 21 years to occur, during which time numerous recommendations were made to seek a change in the behavior of the police, which would be due to compliance with the national and international norms in force.

Despite the condemnation of the Brazilian State, nothing has changed, this being the case of the "Jacarezinho Favela", the worst of all in terms of "lethality", but it represents the continuity of execution practices.

The repetition of police operations in which poor, young people and blacks are killed contradicts the idea of the Federal Constitution of 1988, that there is no death penalty in Brazil.



The disproportion is evident and the forms of combat ignore that in the places where they carry out incursions not only live those whom the police involved would like to slaughter. One thinks of such confrontations no matter the lives of the workers who circulate in that place.

It is essential that the State be urged to change the way it fights trafficking. Some solutions must be found, in particular, with the change of police authorities who agree with the identical confrontation to a war operation alleging the existence of traffickers with firepower, which is not always proven and, mainly, the execution of innocents who are the most affected, in most of their operations.

The Penal System needs urgent reforms, but it continues to be treated as a patchwork where it is changed to criminalize more and increase penalties. The decriminalization of drugs is urgent (since there are other drugs that are legal such as: psychoactive, alcohol, smoking and socially accepted).

What effectively the mass incarceration generated were the criminal organizations, among others, the Red Command, which is said to have spread throughout the country, could not be different since the treatment given to prisoners is unworthy.

The disrespect to the judicial decision of the largest Court of the Country, the Federal Supreme Court, under the allegation that the Ministers practice judicial activism is unacceptable because it is the duty of the Constitutional Court to protect the population and the rescue of their human dignity that is affronted whenever operations such as Jacarezinho and so many others occur.

In reality, police operations lead to the understanding that the policy of combating crime in our country fits perfectly into the concept of necropolitics, that is, those who are in the communities, regardless of whether or not they belong to drug trafficking can be victims of "making die", solely because they are mostly black and poor, stripped of citizenship.

This is not a "war on drugs", but a war against people whom the state understands as undesirable, because they do not have the capacity to act as companies, because they are vulnerable people.

We hope that 21 years will not pass, the time since the IACHR condemns Brazil, so that the necessary measures to change the police's fight against the poor populations of the favela will be modified. In the midst of such news that reports so many deaths by police violence, the Corporation of Rio de Janeiro, banned the disclosure of military operations for 5 years.



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