

In Brazil, Torture Is Still Favorite Interrogation Method

Written by Augusto Zimmermann
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The Constitution of Brazil declares that the government of this country cannot punish individuals without due process of law. It also states that no punishment might be cruel or leading to the offender's death, and that nobody can be subject to any form of torture, or inhuman, or degrading treatment.(1)

In practice, however, the reality of the Brazilian penal system differs considerably from what the basic law of the land says.

In Brazil, prisons are normally overcrowded and unfit for human habitation. Prisoners and suspects are frequently killed, tortured, beaten, subject to electrical shocks, and all sorts of maltreatment at police stations and prisons.

A considerable number of police precincts, perhaps even a majority of them, include a torture room. The most common torture technique employed by the Brazilian police is called pau de arara, or parrot's perch.

The parrot's perch, as a report from the Human Rights Watch (HRW) correctly explains, "is a bar on which the victim is suspended from the back of his knees, with his hands tied to his ankles.

Once on the perch, the victim, usually stripped naked, is subjected to beatings, electric shocks, and near-drowning. Near-drowning, in turn, a torture technique in which the victim's head is submerged in a tank of water, or water is forced into his mouth and nostrils." (2)

According to the Brazilian Constitution, torture is a heinous crime not bailable or subject to grace or amnesty.(3) In 1997, the National Congress passed a harsher legislation against the crime of torture, as obligation assumed by the government when it ratified the 1989 "International Convention Against Torture".

However, as a highly regarded report from the Amnesty International (AI) comments,

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“Torture and ill-treatment continue to be used by elements within all Brazil’s police forces as a means of investigation and to extract confessions. Torture was also used to extort money and serve the criminal interests of corrupt officials. Although the federal government launched a campaign to combat torture in 2001, prosecution figures under the 1997 Torture Law continue to be extremely low given the endemic practice of the crime.” (4)

There would be no mistake to argue that the Brazilian police regard the torture of criminal suspects as “usual method of investigation”. A U.N. special rapporteur on torture in Brazil, Sir Nigel Rodley, has accused the Brazilian police of torturing suspects at initial questionings, temporary detentions, and long-term detentions. (5)

Actually, even the chief police of Rio de Janeiro once confessed that torture is indeed a “normal practice” in prisons and police stations. He explained it by suggesting that Brazilians would consider torture a “just punishment for common criminals, as a legitimate means of obtaining information.” (6)

But the basic fact is that cruelty against prisoners and criminal suspects, including their summary execution, cannot in any plausible way be solely attributed to the lack of proper legislation, or even to meager financial resources of the police forces. (7)

In reality, the police have just got used to arbitrarily work beyond the limits of legal norms. In Belo Horizonte, capital of the powerful state of Minas Gerais, a report says that the police of this city have been working “almost exclusively” outside the law, by systematically applying torture as a means of investigation. (8)

Although the Constitution of Brazil also talks about the necessary respect to the physical and moral integrity of prisoners, even their most basic rights may be not necessarily respected. (9)

As good example, the penal law says that some prisoners must be transferred to less restrictive facilities before their full term is finished. However, some state governments have argued that the prison system has no infrastructure to comply with this legal provision.

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When a judge ordered the state of Rio de Janeiro to empty out an overcrowded police lockup, in 1997, Governor Marcello Allencar declared that the state would just ignore the judicial ruling, because, as he put it, "œlegal standards are one thing, reality is another"œ. (10)

In the same way, the Constitution of Brazil says that the place where convicts must serve their prison term must vary according to the nature of their offence, as well as their age, sex, and other basic features. (11)

Also, the prison law determines that dangerous inmates ought to be always separated from less-dangerous ones. In practice, however, dangerous criminals are crowded together with non-violent criminals, and end up killing the latter ones.

Of course, such violence has been encouraged by the reality of impunity, which seems to always work in favor of the perpetrator. Very few incidents in the prisons, including even the most egregious cases, are ever investigated with efficiency.

Although prisoners would in theory be endowed with the legal right to free access to medical care, legal aid, and social services, such benefits are not provided as contemplated by the law.

Actually, prisoners in Brazil do not receive even a most basic medical care, including prescription for the treatment of lethal diseases such as tuberculosis and HIV/AIDS.

By the way, both tuberculosis and HIV/AIDS have now reached epidemic levels among the prisoners. In some police lockups, as the HRW reports, "œseverely ill and even dying prisoners remain crowded with other inmates"œ. (12)

As the HRW also reports, even female prisoners do not have their basic rights respected by public authorities. For example, the Brazilian Constitution determines that all female detainees must be ensured with adequate conditions to stay with their babies during the nursing period. (13)

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This legal provision is barely respected, and convicted mothers usually lose their newborn children after delivery.(14)

In fact, even female prisoners are beaten and tortured in prisons and lockups. A female detainee told HRW investigators that torture is certainly not limited to male inmates.

In fact, the interviewed herself had been one day stripped naked, wet, put on a perch, and severely beaten by four male officers, who also gave electric shocks on her body, including on her vagina.(15) Other forms of abuse against female prisoners include extortion for sexual favors.(16)

But nobody would deny that one of the most infamous acts ever perpetrated by the military (uniformed) police was the 1992 Carandiru prison massacre of 111 inmates. Curiously, the people of São Paulo elected the police officer who commanded the massacre, Colonel Ubiratan Guimarães, to the State Legislative Assembly.(17)

The election gave Colonel Guimarães parliamentary immunity against the judicial decision condemning him.(18) Then, he remains free and continues to serve as a democratically elected state deputy.

A survey conducted only a few days after the massacre indicated that 60 percent of the population approved the police action. The survey also found that 56 percent of the interviewed thought that the value of human rights should not be extended to certain types of criminals, particularly murders and rapists.(19)

Some politicians would agree with the public opinion, that certain criminals do not deserve any sort of human right.

Marcello Allencar, the former Governor of Rio de Janeiro, once stated that some criminals are "wild animals"™ who had lost their condition of humanity.

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When the police of Rio de Janeiro killed 13 suspects of drug trafficking, on May 11, 1995, Governor Allencar declared that those who were killed were not really human beings.

As he went on to explain his bizarre theory: "These violent criminals are animals. They can't be understood any other way. These people don't have to be treated in a civilized way. They have to be treated as animals." (20)

References

- (1) Federal Constitution, Art.5, III.
- (2) Rights Watch; *Behind Bars in Brazil*. December 1, 1999.
- (3) Federal Constitution, Art.5, XLIII.
- (4) Amnesty International; *2003 Report on Brazil*. Covering events from January-December 2002.
- (5) See: U.S. Department of State; *2004 Country Reports on Human Rights Practices "Brazil"*. Released by the Bureau of Democracy, Human Rights, and Labour, February 25, 2004.
- (6) *Freedom in the World: The Annual Survey of Political Rights & Civil Liberties "2003"*. Edited by Adrian Karatnycky, Aili Piano, and Arch Puddington. New York: Freedom House, 2003, p.108.
- (7) Human Rights Watch; *Behind Bars in Brazil*. December 1, 1999.
- (8) Human Rights and Citizenship Division, Office of the Mayor of Belo Horizonte. *Dossiã Violãncia Policial, Minas Gerais (Belo Horizonte, March 1996)*, p.3. Translation by Human Rights Watch; *Behind Bars in Brazil*. December 1, 1999.
- (9) Federal Constitution, Art.5, XLIX.
- (10) Human Rights Watch; *Behind Bars in Brazil*. December 1, 1999.
- (11) Federal Constitution, Art.5, XLVIII.
- (12) Human Rights Watch; *Behind Bars in Brazil*. December 1, 1999.
- (13) Federal Constitution, Art.5, XLIX.
- (14) Human Rights Watch; *Behind Bars in Brazil*. December 1, 1999.
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- (16) U.S. Department of State; *2004 Country Reports on Human Rights Practices "Brazil"*. Released by the Bureau of Democracy, Human Rights, and Labour, February 25, 2004.
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- (18) Ungar, Brooke; "Not-so-swift Justice: How to Reform Brazil's Justice." *The*

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(19) See: Prillaman, William C.; *The Judiciary and Democratic Decay in Latin America: Declining Confidence in the Rule of Law*

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(20) Human Rights Watch; *Police Brutality in Urban Brazil*. April 1997.

Augusto Zimmermann is a Brazilian Law Professor and PhD candidate for Monash University's Faculty of Law, in Australia. The topic of his research is the (un)rule of law and legal culture in Brazil.

He holds a LL.B and a LL.M (Hons.) from the Pontifical Catholic University of Rio de Janeiro, and is a former Law Professor at the NPPG (Research and Post-graduation Law Department) of Bennett Methodist University, and Estacio de Sa University, in Rio de Janeiro.

He is also a member of the editorial board of *Achegas*, Brazil's journal of political science, and *Lumen Juris*, a prestigious law book publisher in Brazil. His e-mail address is: augustozimmermann@hotmail.com.