

THE SEARCH FOR BRAZIL'S DISAPPEARED

The Mass Grave at Dom Bosco Cemetery

March 13, 1991

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Acknowledgments

This report was written by Eric Stover, a consultant to Physicians for Human Rights and Human Rights Watch. It is based on a mission to São Paulo conducted by Clyde Snow, Luis Fondebrider, Alejandro Inchaurregui, Fred Jordan, and Eric Stover between October 17-23, 1990. Clyde Snow is a consultant in forensic anthropology to medical examiners' offices in Oklahoma and Illinois. Luis Fondebrider and Alejandro Inchaurregui are members of the Argentine Forensic Anthropology Team--*Equipo Argentino de Antropología Forense* (EAAF). Fred Jordan is Chief Medical Examiner for the State of Oklahoma. Since 1984, members of the delegation have participated in medicolegal investigations of politically-motivated disappearances in Argentina, Bolivia, Chile, Guatemala, the Philippines, and Venezuela.

The mission to São Paulo was supported by Americas Watch, Physicians for Human Rights, the Committee on Scientific Freedom and Responsibility of the American Association for the Advancement of Science, and the University of São Paulo's Center for the Study of Violence. The mission delegates wish to thank our hosts in São Paulo, the Forum of Human Rights Organizations and Relatives of the Disappeared and the Center for the Study of Violence. We also wish to thank the following individuals for their assistance during our visit: Paulo Sergio Pinheiro, Michael Mary Nolan, Myriam Mesquita Pugliese de Castro, Oscar Vilhena Vieira, Emilio Dellasoppa, Amelinha Teles, Ivan Seixas, Joanna Weschler, and Janet Gruschow.

Introduction

On Tuesday, September 4, 1990, just after daybreak, cemetery workers gathered on a hillside in Dom Bosco Cemetery, 20 miles northwest of São Paulo. The men, on orders of the cemetery's director, Antonio Pires Eustáquio, drove their spades into the hard ground and lifted large red chunks of earth from the bank. By noon, they had uncovered a 30-meter long trench. Inside the trench were over a thousand blue plastic bags, each containing a single skeleton.

If Eustáquio's information was correct, most of the skeletons were those of indigents--São Paulo's poor who had died anonymously in the city's streets and hospitals. But others, perhaps as many as 20, were political dissidents who had been abducted by Brazil's security agencies in the 1970s and then never seen or heard of again.

By week's end, the excavation at Dom Bosco Cemetery had attracted scores of journalists and led to angry confrontations between human rights activists and the director of São Paulo's Medicolegal Institute, Dr. José Antonio de Mello. As head of the state's forensic agency, de Mello was to be responsible for overseeing the mass exhumation. But the activists--many of them relatives of the "disappeared"--wanted him barred from the investigation. They claimed that several of the Institute's forensic pathologists, including de Mello, had falsified autopsy reports on political prisoners who had been killed in the 1970s and were later buried in unmarked graves in Dom Bosco Cemetery. Having de Mello run the inquest was "like entrusting the fox with the chicken coop," said Ivan Seixas, a leader of the Organization of Relatives of the Disappeared.¹

On September 11, São Paulo's state governor, Orestes Quercia, at the request of human rights groups, removed de Mello from the forensic

¹ See Sam Dillon, "Doctors in Brazil linked to abuses," *Miami Herald*, October 25, 1990.

investigation and turned it over to the head of the University of Campinas's medicolegal faculty, Fortunato Badan Palhares. Days later, after it was discovered that many of the Medicolegal Institute's archives were missing, Quercia dismissed de Mello from his post.

In mid-October, our delegation travelled to São Paulo at the request of the Forum of Human Rights Organizations and Relatives of the Disappeared and the Center for the Study of Violence of the University of São Paulo. The purpose of our visit was threefold. First and foremost, we wanted to show our support for the families of the disappeared in their efforts to obtain a full public accounting of the fate of their disappeared relatives. We also wanted to observe and, if needed, assist the Campinas's scientists in the recovery and identification of the remains discovered in the mass grave at Dom Bosco Cemetery. Finally, we wanted to learn more about the role forensic pathologists at São Paulo's Medicolegal Institute had played in failing to report or in covering up torture and murder by Brazil's security forces during two decades of military rule.

During our stay in São Paulo, we visited the forensic laboratories at the University of Campinas, where we met and exchanged ideas with Dr. Palhares and his colleagues. Together, we discussed the best means of obtaining antemortem information that could help identify the disappeared. We gave them a questionnaire which the Argentine Forensic Anthropology Team has used in medicolegal investigations of the disappeared in Bolivia, Argentina, Chile, and the Philippines. The questionnaire was designed to aid forensic scientists gather from the relatives of the disappeared such data as the deceased's stature, race, sex, age at death, handedness, and medical history including fractures, dental care, X-rays, and possible osteologic diseases. We also worked with the Campinas scientists in Dom Bosco Cemetery as they began the slow process of removing and cataloging the remains. We interviewed several relatives of the disappeared and representatives of human rights organizations. We also met with the Governor of the State of São Paulo, Dr. Orestes Quercia; the Secretary for Public Security for the State of São Paulo, Dr. Antonio Cláudio Mariz de Oliveira; the Mayor of São Paulo, Dr. Luiza Erundina; and the Archbishop of São Paulo, Cardinal Dom Paulo Evaristo Arns.

This report looks at the events leading up to the discovery of the mass grave in Dom Bosco Cemetery in early September 1990. It also describes some of the procedures and techniques the forensic scientists at the University of Campinas are using in their efforts to identify the remains of the disappeared. Finally, this report suggests several ways in which Brazil's medicolegal system could be improved so as to safeguard against the kind of unprofessional and unethical behavior that took place in São Paulo's Medicolegal Institute in the 1970s.

Torture and Disappearance in Brazil

Brazil's latest period of military rule began in April 1964 and lasted until March 1985. Like similar military governments in Argentina, Uruguay, and Chile, the Brazilian military regime formally abrogated civil liberties and gradually divested the civilian judiciary of much of its authority through a web of decrees designed to protect "national security." In October 1965, after government candidates were defeated in Minas Gerais and Rio de Janeiro, the junta promulgated Institutional Act No. 2. This decree abolished all political parties and allowed the military authorities to disband the legislative branch at will. It also extended the jurisdiction of military courts over the civilian population.

As the military consolidated its power, both peaceful and armed opposition to the regime began to gain strength in the streets, factories, and schools. With students and workers in the forefront of the protest movement, violent confrontations with the military and police spread throughout the country. In response, the government of General Artur da Costa e Silva decreed Institutional Act No. 5 in December 1968 which, among other things, eliminated the writ of *habeas corpus*. From then on, the military and police were free to abduct and torture real and suspected opponents in ways that were secret but, at the same time, sufficiently well-known to deter dissent.

Da Costa e Silva left office after suffering a stroke in August 1969, and, shortly thereafter, the junta placed General Emílio Garrastazu Médici in the presidency. Médici's tenure, which lasted until 1974, soon became the most violent and repressive period in Brazil's history.

Relying on an extensive intelligence network, military and police units began operating out of a labyrinth of 242 secret detention centers.² Some units, like the São Paulo-based OBAN, or *Operação Bandeirantes*, were only semi-officially related to the military, although they were staffed by security personnel from the armed forces and police. Others, like the DOI-CODI units--Information Operations Detachment/Center for Internal Defense Operations--were under the direct control of the army or other branches of the armed forces. Formed in January 1970, the DOI-CODI units soon became the most important organ of political control. They were aided by--and often in competition with--the State Departments for Political and Social Order (DOPS), which operated at the state rather than national level and shared responsibility for carrying out political investigations.

DOI-CODI and its sister agencies abducted thousands of people suspected of sympathizing with the insurgents. Many were arrested because they were related to someone in the armed opposition or because they happened to appear in a suspect's address book. Others were abducted simply because they were journalists or university professors who had criticized or ridiculed the armed forces. Often blindfolded and handcuffed, detainees would be taken to secret detention centers, where they would be held incommunicado for weeks, or even months. Absolute secrecy prevailed over this initial phase of detention. In the majority of cases, not even the military courts, let alone relatives and lawyers, were advised of their detention. During this time, detainees were interrogated under torture, and, in many cases, forced to sign a written confession before being transferred to a police station.

Much of the story of the use of torture in these clandestine centers was memorialized in a report compiled years later by the Archdiocese of São Paulo.³ Entitled *Brazil: Nunca Mais*, the report is based on an analysis of proceedings from 707 complete trials held in military courts from 1964 to 1979, and fragmentary records from dozens of others. Culled from these court records are the names of no fewer than 1,918 prisoners who testified that they had been tortured during interrogation. Also included in the report are descriptions of 283 types of torture. They range from psychological abuse to the use of mechanical instruments, such as the "Christ's crown," in which a metal band is squeezed tighter and tighter about the victim's forehead until the skull cracks.

² See *Torture in Brazil*, translated by Jaime Wright; edited and with an introduction by Joan Dassin, Vintage Books, 1986, p. x.

³ *Brazil: Nunca Mais* (*Brazil: Never Again*) was published in Portuguese in Brazil by the Catholic press Vozes in July 1985. The English-language version, *Torture in Brazil*, was published in 1986, see note 2.

Public outrage over the use of torture by Brazil's security forces first surfaced shortly after the death in detention of Wladimir Herzog, a popular and widely respected São Paulo television journalist, on October 25, 1975. Herzog's DOI-CODI jailers claimed that the journalist had hanged himself by his belt in his cell after confessing to being a member of the Communist party. That, at least, was the official version.

Two weeks later, in a São Paulo courtroom, Rodolfo Osvaldo Konder, a journalist who had been detained at the same time as Herzog, told a different story:

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Konder went on to tell the court that he saw Wladimir a few hours later. "[He] was seated on the same chair, with the hood over his head," Konder recalled, "but he now appeared to be especially nervous, his hands were shaking a lot and voice was weak...." The following day, a DOI-CODI official told Konder that during the night Herzog had committed suicide. Dr. Harry Shibata, the head of the São Paulo Medicolegal Institute, signed an autopsy report to this effect, and the police returned Herzog's body to his family in a sealed coffin.

Within days, Herzog's death had sparked widespread protests throughout the country. Hundreds of journalists and the Brazilian Bar Association--*Ordem dos Advogados do Brasil*--circulated petitions demanding a full inquiry. In São Paulo, an unprecedented ecumenical service, with Cardinal Arns presiding over a crowd of thousands, was held in his honor at the cathedral. A São Paulo federal judge later ruled that the Brazilian government was responsible for Herzog's death based on Konder's testimony and police photographs showing signs of torture on Herzog's body.

On January 17, 1976, another political prisoner died in the custody of the DOI-CODI in São Paulo. The deceased was a metalworker named Manoel Fiel Filho and, according to the police, he had used his socks to hang himself in his cell. Journalists who later saw Filho's body said there were lesions and extensive bruising on the deceased's forehead, wrists, and chest. These apparent signs of trauma, however, were

⁴ *Op cit.*, pp. 201-203.

never noted in Filho's autopsy report. That report, signed by Dr. José Antonio de Mello, a seasoned forensic pathologist at the São Paulo's Medicolegal Institute, gave the cause of death as "suicide."⁵

Forced to take some kind of action, President General Ernesto Geisel dismissed the commander of the São Paulo-based Second Army, General Ednardo D'Avila Mello. The sacking of the officer ultimately responsible for the DOI-CODI in São Paulo was widely interpreted as a blow to the autonomy of the security forces, and it had a disquieting effect on those Brazilians who had long supported the military or remained indifferent to the repression taking place around them.

By 1979, Brazil's economy had plummeted and its image abroad, badly tarnished by reports of disappearances, torture, extra-judicial killings, and the exile of thousands of political exiles, was in need of a facelift. Against this backdrop, Geisel left power in March 1979, and his hand-picked successor, General João Baptista Figueiredo, became president. As one of his first initiatives, Figueiredo promulgated a so-called mutual amnesty for accused political prisoners and any state security agents who might someday become liable for their human rights violations.

The 1979 amnesty law prompted the return to Brazil of thousands of exiles. In the meantime, relatives of the disappeared, emboldened by this new openness, began to search for their missing family members. Many relatives of the missing became acquainted in the waiting rooms of government buildings or outside the offices of police stations and military barracks, where they had gone to seek information about their missing loved ones. They soon organized themselves into groups and, with the aid of lawyers, began demanding an official accounting for the disappeared. These groups discovered that about 262 people had died at the hands of the military, and that 143 others were still unaccounted for.⁶ Of these, at least 63 people had disappeared in the State of São Paulo. Researching morgue and cemetery records and interviewing former political prisoners, they found that most of São Paulo's disappeared had died in official custody, and that the bodies of at least 20 of them had passed through the Medicolegal Institute and were later buried in Dom Bosco Cemetery.

The Mass Grave at Dom Bosco Cemetery

With over 10 million inhabitants, São Paulo is the most populous city in South America and the continent's leading industrial center. Until the 1880s, it was a sleepy, shabby little town of thirty thousand people. By the late 1960s, however, it had grown to nearly three times the size of Paris. To the thousands of Brazilians who went there looking for work, the city promised seemingly large rewards to the ambitious and industrious. But it also was a city of *favelas*, shantytowns of cardboard and wood, where men and women, homeless and without jobs, fell into abject poverty.

As the city's population grew, its officials set out to establish a new cemetery to accommodate the city's untouchables--the vagrants, drunks, and abandoned who subsisted and died unseen under bridges, in alleyways, on in condemned buildings. The cemetery, they

⁵ See Comitê Brasileiro Pela Anistia, Seção do Rio Grande do Sul, *Dossiê dos Mortos e Desaparecidos* (Rio Grande do Sul: Assembleia Legislativa, 1984), pp. 76-77.

⁶ *Ibid*, pp. 19-88.

reasoned, should be as far away as possible from São Paulo's downtown area. They settled on a stretch of hilly land in a working-class neighborhood named Perus, on the city's outskirts.

Dom Bosco Cemetery was opened on March 2, 1971. It was to be a graveyard for the poor, serving communities like Perus, as well as the favelas located on the city's northern boundaries. Its primary function, however, was to serve as the final resting place for the city's indigents.

The cemetery's procedures for registering and interring indigents were straightforward. Whenever the police or firemen found an unidentified corpse, it would be taken to the city's central morgue, the Medicolegal Institute (IML). There, medical examiners, or *medicolegistas*, would autopsy the body to determine the cause of death, as well as fingerprint and photograph it for identification purposes. If no one claimed the body within 72 hours, it would be transferred to Dom Bosco for burial. At the cemetery, clerks would register identified bodies by name, while unidentified bodies would be logged in as N.N.s, for "no names."

In Brazil, as in many Latin American countries, families of the dead are required to pay an annual fee, or "grave tax," which goes toward the maintenance of the cemetery. If these payments are allowed to fall in arrears by more than three to five years, the bones are liable to be disinterred and transferred to a masonry-lined ossuary, freeing up space for newcomers. Having no known next-of-kin to pay their grave tax, Dom Bosco's N.N. skeletons thus became prime candidates for such secondary burials.

By 1974, Dom Bosco was running out of burial space. That year, on orders of the cemetery's director, Dilermando Lavrador, gravediggers began disinterring hundreds of graves in two sectors of the cemetery.⁷ The work lasted nearly a year. In all, just over a thousand skeletons were exhumed and placed in separate plastic bags. In some cases, cemetery workers returned identified skeletons to the family for reburial. As for the bags of unidentified skeletons, Lavrador had the workers stack them waist-deep in the cemetery's two *velorios*, or viewing rooms. They remained there for over a year.

In 1975, Lavrador was replaced as cemetery director by Rubens Vieira. Vieira began searching for another municipal cemetery that would be willing to inter the remains in an ossuary. Vieira's quest proved unsuccessful and, in mid-1976, he ordered the bags of bones removed from Dom Bosco's viewing rooms and reburied. The cemetery's backhoe operator, Pedro Batista, dug a trench in the earth about 30 meters long and 2 meters deep. Workers then deposited the bags in the hole and covered it with dirt.

In 1978, Vieira resigned as director, and Antonio Pires Eustáquio replaced him. New to the cemetery, Eustáquio began reorganizing the archives. What he found puzzled him. Leafing through old burial logs, he discovered that the clerks had registered hundreds of exhumations between 1974 and 1975, but nowhere had they noted what had been done with the remains. When Eustáquio confronted the gravediggers with this information, they led him to the trench.

⁷ See the proceedings before the Comissão Parlamentar de Inquérito para apurar a origem e as responsabilidades sobre as ossadas encontradas no cemitério Dom Bosco, Câmara Municipal de São Paulo (Requerimento 689/90).

In the meantime, Eustáquio was confronted with another dilemma. Occasionally, people came to his office and asked to see the burial registry. "I could see these people were, you know, well dressed and educated, that sort of thing," he recalled in an interview with members of our delegation.⁸ "So we'd chat, and I'd try to be helpful. Well, eventually they told me they were relatives of the disappeared."

One of the first relatives to approach Eustáquio was a young woman named Susana Lisbôa. In the late 1960s, Susana's husband, Luis Eurico Tejera Lisbôa, had been a student leader in Porto Alegre. In 1969, shortly after a military court convicted Lisbôa, in absentia, for student activities, he joined the National Action for Liberation, a guerrilla organization, and went into hiding. During this time, he kept in contact with his wife. Then, in September 1972, he suddenly disappeared.⁹

Eight years later, in 1979, Susana Lisbôa obtained a police report which stated that her husband had committed suicide in a boarding house on September 3, 1972. This was not consistent, however, with the testimonies of witnesses or police photographs of Lisbôa's room which showed the walls riddled with bullet holes. Moreover, the police had made no attempt to notify Lisbôa's family of his death.

Later that year, Susana Lisbôa traced her husband's body to Dom Bosco Cemetery. Burial records showed that the cemetery had received a body in September 1972 under the name of "Nelson Bueno"--the pseudonym Lisbôa had used after he went underground in 1969. Fortunately, his body was not among those disinterred during the mass exhumations between 1974 and 1975. On August 28, 1979, the day the Brazilian Congress approved the amnesty law, Luis Lisbôa's remains were exhumed and positively identified.

During the last six years of military rule, Eustáquio met frequently with the relatives of the disappeared. Together, they pored over the burial logs searching for clues as to the exact location of *desaparecido* burials. They found that some of them had been registered under their real names, while others, like Lisbôa's, appeared as pseudonyms. In a few cases, a name similar to the deceased's real name appeared with one or two letters transposed. Comparing burial and exhumation dates contained in the registry, Eustáquio soon realized that many, if not most, of the disappeared had been among the bodies exhumed and reinterred in the mass grave in 1976.

In 1985, the year the military left power, Eustáquio approached his superiors about opening the trench. But they shrugged off his request, arguing that there was nowhere to put the remains.¹⁰ Four years later, in January 1989, soon after São Paulo's newly elected mayor, Luiza Erundina, had taken her post, the vice-mayor, Luiz Eduardo Greenhalgh, announced that the new municipal government would resolve the matter. Twenty months later, Mayor Erundina finally ordered the trench opened.

The Bureaucrats of Death

On September 5, 1990, the day after the mass grave was excavated, São Paulo's municipal chamber established a special commission of

⁸ Interview with Antonio Pires Eustáquio on October 18, 1990.

⁹ See *Torture in Brazil*, pp. 211-212.

¹⁰ See "Mortos se levantam," *Veja*, September 12, 1990, p. 32.

inquiry to probe the fate of the disappeared buried at Dom Bosco cemetery. Over the next two months, the seven-member panel took testimony from cemetery and morgue officials, gravediggers, and police personnel. Possibly the most revealing testimony came from Dr. Harry Shibata, the state-employed *medicolegista* who had allegedly falsified Wladimir Herzog's autopsy report in 1975.

In October 1980, the São Paulo State Medical Council unanimously voted to remove Shibata from the medical registry based on the Herzog case and his involvement in another apparent cover up. This case involved a former member of parliament, Marco Antonio Tavares Coelho. In 1975, Coelho accused Shibata of signing a medical certificate stating that Coelho had no signs of torture on his body after he was subjected to prolonged interrogation at military intelligence headquarters in São Paulo earlier that year.¹¹ Court-appointed doctors later examined Coelho and confirmed marks of beatings, burns on his left arm, and bruises on his legs and calves.

Shibata testified before the commission on October 10, 1990.¹² He denied any knowledge of "irregularities" either at the Medicolegal Institute or Dom Bosco Cemetery in the 1970s. But he did say that he was aware that "terrorists" had been buried at the cemetery. "All the guerrillas that died in the streets of São Paulo were sent to this cemetery as were the corpses of indigents."¹³

When a panel member asked Shibata if he was ever aware that bodies of political prisoners had been brought to the Medicolegal Institute, he replied, "I can only say what I have said before. Our [the *medicolegista*'s] work took place inside the autopsy room. We didn't have access to the administrative investigation, and besides that part took place far away from the autopsy room. Our function was confined to the corpse which we were to autopsy, nothing more."¹⁴ He went on to explain that during autopsies the *medicolegistas* rarely knew--nor were they required to know--where the bodies had come from, nor their identities. Those details, he said, "they might only learn later through newspapers or press reports. And, even then, the Institute wasn't obliged to pursue rumors."

When pressed by the commission's chairman, Julio Cesar Caligiuri, to explain why none of the Medicolegal Institute's autopsy reports during military rule mentioned signs of torture, Shibata replied, "I acknowledge your conviction that there was torture, that there was something serious going on. I admit that was possible, but it was a dirty war..."¹⁵ He then added:

**Our [the *medicolegista*'s] function was purely technical. First thing in
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¹¹ See Eric Stover and Elena O. Nightingale (eds), *The Breaking of Bodies and Minds: Torture, Psychiatric Abuse, and the Health Professions* (New York: W.H. Freeman, 1985), p. 114.

¹² See Harry Shibata's testimony before the Comissão Parlamentar de Inquérito, at rodizio A-9, folha 1.

¹³ See "Mortos se levantam," *Veja*, p. 32.

¹⁴ Comissão Parlammenta de Inquérito, at rodizio A-13, folha 2.

¹⁵ *Ibid*, at rodizio A-28, folha 2.

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While Shibata was adept at downplaying the importance of the *medicolegista's* function, his composure was shaken when Caligiuri confronted him with several discrepancies in the Medicolegal Institute's records. One set of documents involved the case of Carlos Nicolau Danielli, a 43-year-old journalist who was arrested in São Paulo by the DOI-CODI agents on December 28, 1972. According to two fellow detainees, Maria and César Telles, Danielli was tortured for four days at DOI-CODI headquarters. On the fifth day, he died. The next day, an official notice appeared in the press stating that Danielli had been killed in a shootout with the police.

What troubled the commission's chairman was a glaring discrepancy in Danielli's postmortem documents. In the official police request to the Medicolegal Institute for an autopsy to be performed on Danielli, it was stated that the deceased "had died in a shootout with agents of the security forces..." at 4 PM, December 30, 1972. Meanwhile, the postmortem report, signed by the *medicolegista* Isaac Abramovitch, stated that Danielli's body had been autopsied in the Institute at 8 AM, December 30, 1972. How was it possible, Filho asked, that a body was autopsied before it had arrived at the institute, let alone before it was even dead?

"I find it very strange," Shibata replied. "If I had been in charge when this occurred, I would have launched an investigation...but then I wasn't there."

During the course of its inquest, the commission discovered several other anomalies in the Medicolegal Institute's archives. In the morgue's autopsy registry, the letter "T," for *terrorista*, had been scrawled in black ink with an arrow pointing to several names later found to be those of the disappeared. Also, on several death certificates--all belonging to the disappeared--morgue officials had given the profession of the deceased as "terrorist" (see Appendix A). Such entries seemed to belie Shibata's contention that he and his colleagues were mere technicians. Or, as one angry member of the commission put it: "So does this mean the medical profession can now diagnose terrorism?"

During our visit to São Paulo in October, Ivan Seixas, a 37-year-old Brazilian journalist and human rights activist, showed one of our delegates his father's *Requisição de Exame*, or autopsy request form. These two-page documents are filled in at the Medicolegal Institute whenever a cadaver is brought there for an autopsy. In this case, the agency that delivered the body was the Security Department of the State of São Paulo. Dated April 16, 1971, the document states that "the deceased, Joaquim Alencar Seixas, aged 49, profession "terrorista," died in an intense shoot out with security agents...at 1 PM on April 16, 1971, on Cursino Avenue, Ipiranga, São Paulo."

"That," Ivan Seixas said, "is a complete fabrication of my father's death, even the date is a lie."

DOI/CODI agents arrested Ivan, then 19 years old, and his father in São Paulo on April 16 and took them to a secret detention center. Around the same date, Joaquim's wife, Fanny Akselrud Seixas, was also detained and taken to the same center. After arriving at the center, father and son were taken to a room above the holding cells and tortured in front of one another. The following day, the São Paulo press printed an official statement declaring that Joaquim Seixas had been killed in a shoot out. In fact, he was still alive.¹⁶

In 1972, Joaquim's wife told a military court that at various times on the morning and afternoon of April 17, she could hear her husband's screams from her cell. Then, at around 7 PM, she watched from her cell window as two guards loaded his body into a police car. Years later, Joaquim Seixas's remains were exhumed from an unmarked grave in Dom Bosco Cemetery.

Observations and Recommendations

1. Now that the period of military rule has ended in Brazil, the lingering doubts left by politically-motivated disappearances should be resolved. In our experience establishing the fate of the disappeared and bringing those responsible for their deaths to justice are necessary steps for promoting a greater respect for human rights worldwide. The exhumation, identification, and determination of the cause and manner of death of the disappeared is an important part of this process. From a humanitarian point of view, families will finally know the fate of their loved ones and be able to give them a proper burial. In addition, through forensic documentation and subsequent litigation, the knowledge that those responsible for such crimes can be held accountable for their actions, may deter such practices in the future both in Brazil and elsewhere. To these ends, we urge that the Brazilian federal and state authorities investigate the fate of all the disappeared in Brazil.

2. During our visit to São Paulo in October, we found Fortunato Badan Palhares and his team to be dedicated professionals who were using modern scientific procedures and techniques to recover and catalogue the Dom Bosco remains. They now face a difficult and time-consuming task, one that could last over a year and will require the patience of all concerned. We have offered Dr. Palhares our assistance should it be required in the future.

By early December 1990, the Brazilian scientists had removed all of the skeletons--1,048, in all--from the mass grave at Dom Bosco Cemetery and transferred them to the University of Campinas for laboratory studies. So far, human rights investigators have identified the names of six *desaparecidos* whose remains were buried in the grave. They are Flávio de Carvalho Molina; Francisco José de Oliveira; Dimas Antonio Casemiso and his brother, Demis Antonio Casemiso; Federico Eduardo Mayr; and Gernaldo Jesus Silva. The remains of a seventh political prisoner, interred as either Luis Almeida Araújo or Rui Carlos Vieira Berbert, are also believed to have been buried in the grave.

The medical histories of these seven men should provide the Brazilian scientists with the possibility of eventually identifying at least a few, if not all, of them. Antemortem dental X-rays could provide the most immediate means of identification. If, for one reason or another,

¹⁶ See *Dossiê dos Mortos e Desaparecidos*, pp. 44-45.

sufficient dental evidence is not available, the scientists will have to undertake a more detailed anthropological study of the skeletons. Such a study would involve determining the age at death, sex, race, stature, and handedness of each of the skeletons. This process would help the scientists eliminate those skeletons whose osteological traits do not match those of the seven *desaparecidos* in life. For instance, forensic anthropologists can often determine the handedness of a skeleton by examining the surface of the shoulder joint of the scapula, or shoulder blade. Regularly extending the arm to throw a baseball, for example, can change the shape of the bone, and a lifelong preference of one arm over the other--handedness, in the anthropological vernacular--would be noticeable. In addition, using one arm more often causes the bones of that arm to grow longer, sometimes by several millimeters. In the event that one of the seven disappeared were left-handed--a trait found in only 13 percent of the population, the Brazilian scientists could exclude a majority of the Dom Bosco skeletons as corresponding to that particular individual.

Another method of exclusion is a video-imaging process called skull-face superimposition, in which a video image of a photograph of the deceased is placed over a video image of a skull. If the shape of the skull fails to match the contours of the face in the photo--the angles of the jaw, the slope of the forehead, the position of the nose--then that person can be eliminated. If they match, however, then the technique helps confirm the identification, so long as other physical traits on the skeleton and the deceased are consistent.

Finally, the Brazilian scientists may be able to identify some of the skeletons by studying antemortem and postmortem X-rays. In the world of forensic anthropology, the antemortem X-ray is like a fingerprint. Instead of whorls and grooves, the skeleton's uniqueness manifests itself in the anatomical shape and structural components of each bone. Injuries, such as an old wrist fracture, can solve a case as soon as the X-ray is mounted on a viewing screen.

3. Forensic pathologists are the archivists of society, recording how we spend our final days and hours on Earth. They possess special skills and techniques that can clearly detect crimes of violence, including those committed months and even years previously. As such, society has vested them with a solemn authority to speak for the dead. Implicit in that trust is a responsibility to speak impartially and truthfully. The dead cannot perjure themselves; only human failure to listen and interpret the evidence can dishonor their final testament.

Most medicolegal investigations involving a body begin with an attempt to determine the cause and manner of death. The distinction between the two terms is important. An autopsy may reveal that the cause of death of a man fished from a river is asphyxiation due to his lungs' filling with enough water to halt breathing. If, however, the cause also is found to have involved an obvious blow to the head with a crowbar, after which the unconscious victim was weighted and stuffed into a burlap bag, the investigation takes on an added air of urgency. It also helps investigators determine the manner of death, of which there are five possibilities: homicide, suicide, accident, natural, or undetermined.

Brazilian *medicolegistas*, like those employed at São Paulo's Medicolegal Institute, are not required to determine the manner of death. That determination is left to the judge, who usually has no training in medicine, let alone forensic pathology. Thus there exists a great possibility that the actual manner of death may be misdiagnosed or, in cases which implicate government agents, simply covered up.

Another flaw in Brazil's medicolegal system is the fact that each state medicolegal institute serves the police. Under Brazilian law only a medical examination authorized by a police authority is valid in court. As such, when there is a death in official custody, it is the police that

deliver the body to the institute for a postmortem examination and, in most cases, collect the scene evidence and take testimony from witnesses. The institute's *medicolegistas* rarely, if ever, interview witnesses or travel to the crime scene to gather evidence, both of which are often crucial in determining the manner of death.

Because the field of forensic medicine rests on the concept of a legitimate government authority, forensic pathologists may face a distressful and dangerous situation when the state itself subverts the system of justice. Aside from the few whose political sympathies led to their actual collaboration with the security forces, many Brazilian *medicolegistas* had agonizing choices to make during military rule. Some chose not to work for the police-run institutes, while others when confronted with bodies showing obvious signs of torture simply turned a blind eye.

It is our understanding that many Brazilian forensic scientists now favor a medicolegal system that is completely independent from the police. Both Cardinal Dom Paulo Evaristo Arns and São Paulo's governor, Dr. Orestes Quercia, told us that they strongly supported an independent medicolegal system. We would urge, therefore, that the Governor direct the Center for the Study of Violence at the University of São Paulo to undertake a study of the legislative and administrative steps that could lead to the establishment of an independent medicolegal institute in the State of São Paulo.

Such an institute should serve as the unit of ultimate responsibility for the administrative and scientific investigation of human deaths. It should be independent of the police and other law enforcement agencies. To aid in its work, the institute should establish affiliations with medicolegal and other scientific departments in one or more universities. The responsibility of the institute should reside in a board or commission comprised of those who seek its services. Composition of the board could include, for example, representatives from

- o University medical departments**
 - o Bar Association**
 - o Medical Association**
 - o Judiciary**
 - o State Police**
 - o Private Sector**
- o Public Health Administration**
- o Human Rights Commission**

The terms of these representatives should be staggered. As a group, they would appoint the director of the Institute, who would be directly responsible to them. Funding for the institute should be at the state rather than local level. The Board should have the ability to promulgate rules and regulations, and should have input into the development of new laws as the state-wide system develops.

Deaths in the following categories should come under the jurisdiction of the institute immediately upon their occurrence:

- 1. Any death possibly due to violence**
- 2. Any death in police custody**

3.Any death of an individual whose doctor cannot reasonably determine it to be of natural causes

4.Any death in which there is a question of identity

5.Any death in which the body is to be cremated, removed from the State of São Paulo, or ultimately be made unavailable for study

6.Any unexpected death occurring during a therapeutic procedure

7.Any death that might constitute a threat to public health

8.Any death in a government run mental hospital

9.Any person buried without what is judged to be a reasonable and proper certification

The institute should be autonomous of the police and other law enforcement agencies. It should have its own death investigators throughout the State of São Paulo. These investigators should be responsible to the director. It should attempt to have an investigator on the scene following any violent, suspicious or unattended death. Moreover, the director should have access to all witness, scene, and medicolegal evidence.

Appendix A*

***A death certificate from the Medicolegal Institute giving the profession as "terrorist."**

Americas Watch is a non-governmental organization that was created in 1981 to monitor human rights practices in Latin America and the Caribbean and to promote respect for internationally recognized human rights standards. The Chairman is Adrian DeWind; Vice-chairmen, Peter Bell and Stephen Kass. Its Executive Director is Juan E. Méndez; Associate Directors, Cynthia Arnsen and Anne Manuel.

Americas Watch is part of Human Rights Watch, an organization that also consists of Africa Watch, Asia Watch, Helsinki Watch and Middle East Watch. The Chairman of Human Rights Watch is Robert L. Bernstein; Vice-Chairman, Adrian DeWind. Aryeh Neier is Executive Director; Deputy Director, Kenneth Roth; Washington Director, Holly J. Burkhalter; California Director, Ellen Lutz; Press Director, Susan Osnos; Counsel, Jemera Rone.

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Physicians for Human Rights (PHR) is an organization of health professionals whose goal is to bring the skills of the medical profession to the protection of human rights. PHR works to prevent the participation of doctors in torture, other serious abuses or administration of the death penalty; to defend imprisoned health professionals; to stop physical and psychological abuse of citizens by governments; and to provide medical and humanitarian aid to victims of repression. PHR adheres to a policy of strict impartiality and is concerned with the medical consequences of human rights abuses regardless of the ideology of the offending government or group.

Since its founding in 1986, PHR has conducted over thirty missions concerning nineteen countries: Brazil, Burma (Myanmar), Chile, Czechoslovakia, Egypt, El Salvador, Guatemala, Haiti, Iraq, Kenya, Kuwait, Panama, Paraguay, the Republic of Korea, Sudan, the United States, the USSR, and Yugoslavia.

The Chairman of Physicians for Human Rights is H. Jack Geiger; Vice President is Carola Eisenberg; Executive Director is Jonathan Fine; Associate Director is Susannah Sirkin; Nancy Arnison is Program Officer.

* * *

The American Association for the Advancement of Science (AAAS), founded in 1848, is the largest federation of scientific societies in the world, with 293 affiliated societies and 132,000 individual members, and is the publisher of Science magazine. The Committee on Scientific Freedom and Responsibility is a joint committee of the AAAS Board and Council. The Committee was created in 1976 to develop policies and procedures to protect scientists, engineers, and health professionals; and to develop programs to foster attention to scientific freedom and responsibility within AAAS and its affiliated societies. The Committee currently has programs: in professional ethics, science and society, and science and human rights.

The Science and Human Rights Program documents cases of foreign scientists, engineers, and health professionals whose human rights have been violated; refers cases to AAAS affiliates for further investigation; initiates advocacy on behalf of cases; sponsors visits to countries to investigate human rights issues; and assists scientists in the application of their professional knowledge and skills in investigations of human rights violations.

The Chairman of the AAAS Committee on Scientific Freedom and Responsibility is Sheldon Krimsky; Chairman of the Subcommittee on Science and Human Rights is Robert H. Kirschner; Director of the Science and Human Rights Program is Audrey Chapman.

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