

Time to defeat Organized Crime

INTERVIEW WITH GETÚLIO BEZERRA SANTOS

Picture by Dado Galdieri/Folha Imagem - 10.31.2001



Retired judge Nicolau dos Santos Neto is taken by agents to the incarceration of the Federal Police in São Paulo. He was sentenced to 26 years and six months in jail, for the crimes of peculation and corruption, for embezzling almost 95 million dollars from the building of the TRT-SP.

IN THE LAST few months, the Federal Police (PF) has been standing out in the country as a consequence of the combat to corruption in several sectors of national life, as well as in the fight against Brazilian and foreign gangs that operate in the drugs and arms trade. Having that trajectory in mind and the heavy responsibility of the PF in the repression to the Organized Crime, *ESTUDOS AVANÇADOS* journal asked Dr. Paulo Lacerda, the director of that institution, for an interview.

As an answer to that request, Dr. Paulo Lacerda entrusted chief of police Getúlio Bezerra Santos, who's the current director of PF's Combat to the Organized Crime, to answer the questionnaire sent to him. The interview was given to us by phone, on August 21st of this year. In short, those were the main information transmitted by chief of police Getúlio Bezerra Santos. *(Marco Antônio Coelho)*

ESTUDOS AVANÇADOS – The existence of the Organized Crime seems to be a new datum in the Brazilian life. Is that fact related to the greater diffusion of the drugs and arms traffic in our country? Do other factors – such as the overcrowded prisons – also contribute to the development of the Organized Crime in Brazil?

Getúlio Bezerra Santos – Organized Crime is not that new. North American films and television already showed it a long time ago – with Al Capone and *The untouchables*, for example. And Brazil didn't have any Berlin Wall or Great Wall of China to protect us from such demonstrations.

We have the following concept of Organized Crime: it has to do with crimes of great aggressive potential, executed by organized crime groups, permanent or long lasting, which are always seeking financial advantage and which eventually weaken the government. That's only a broad concept because there's no legal definition. I believe that Brazil must accept the recommendations of the Palermo Convention, which it has signed, to better define the concept.

No doubt, drugs traffic, as a variety of what we call Organized Crime, has been deserving distinction and great visibility all over the world due to the harm that it causes. Now there are demonstrations of the Organized Crime that become invisible to repression due to their level of sophistication and their reach. I'm talking about crimes against the public administration and against the financial market, actions that represent deadly blows to the government, and those crimes must be fought with all our efforts. That's the origin of the criticisms previously made to the Federal Police, for not being bold enough to act in certain areas against certain kinds of crime.

Now we started to adopt a new stance without the fear of using panoramic elevators and to make searches in air-conditioned environments. That was the change in the PF and in other institutions which have seen that those crimes are not untouchable, even because we currently have a very big responsibility in relation to the society.

The arms traffic situation is not very clear, since most of the arms that move around in Brazil are produced right here. In that issue we're vulnerable, not only due to the lack of control, but also because Brazil is almost a continent. Of course there are flaws in that control. However, it should be seen that the border between the United States and Mexico, despite being heavily monitored (not even an ant can go through without being seen by some monitor), is also vulnerable. And it must be considered that our border with Bolivia is larger than the one between the United States and Mexico.

The visibility of the Organized Crime performance, which can be observed inside the prisons, may be considered as an announced bomb that was about to explode at any moment. In the Palermo Convention, the U.N. calls this a "structured group". They are confined criminals who, on behalf of a false solidarity, took charge of the command of the prisons, due to the absence of the government. That's why I call it *prisons' welfare*.

Since they have bad temper and most of them are convicted people, living in an almost pathological situation, they got organized to continue

executing crimes, making a false protection of prisoners' relatives, in the gang protection environment, such as the First Command of the Capital, PCC, which even became a brand. That kind of crime reverberates and disturbs, but it's not it that weakens the government. What really weakens us are such factors as corruption, tax evasion, the embezzlement of public funds, and money laundering, because the government ends up with no resources to solve all the problems.

The improvement of the Federal Police

ESTUDOS AVANÇADOS – As far as those currently more visible crimes are concerned, don't you think that there should be changes in the government's stance in relation to the organized crime? For example, providing other legal instruments for the PF to fight in a more active manner such crimes as arms and drugs traffic?

Getúlio Bezerra – Those criminals were sure that the repression agencies would only arrest the “small thieves”, following the old example that the police of the feudal lords was used to arrest the runaway slaves. Anyway, even the police considered impossible to solve crimes of great aggressive potential, making an effort to solve minor crimes. It was never thought that the police could act in certain areas.

The main news in relation to the Organized Crime is that, before, the wall (that turned reaching the criminals difficult) was very high. Now, with the help of technology advances and the consolidated operational doctrine of the PF, we grew and we can now see the other side of the wall. So, see the fuss that exists when we get to the millionaire schemes of public fund embezzlements, to the great companies and even to the business fashion conglomerates.

All that generates, on the one hand, support of the population, which always gets angry when it gets to know great frauds and corruption. But, on the other hand, some sectors think that we have gone beyond the limits.

Indeed, it's necessary to improve the staff and our police institutions. Even without politicizing the debate, the fact is that, when Dr. Paulo Lacerda took over the direction of the PF, he changed its structure. For example, when he aggregated some crimes to certain directorships (such as the one in charge of the Organized Crime) or when he united in a single sector the crimes related to drugs, chemical products, the cargoes and money laundering. Thus, it was possible to democratize more the funds that previously were preferably destined to the repression of drugs and smuggling.

Crucial issues

I start from three pillars to improve our work: *staff qualification and improvement of the structures, integration of the police institutions and the never ending quest for an effective legislation.* That investment in the staff

quality is crucial and I believe that everyone understands that issue. We must make a good selection of the policemen and an effort for adequate qualification, so that we won't have armed gangs without any doctrine and strategy. We must extend the respect to the individual rights guaranteed in the constitution, and when those rules are violated they must be repressed.

Picture by Jamil Bittar/Reuters Agency – 4.26.2002



Drug dealer Luiz Fernando da Costa, known as Fernandinho Beira-Mar, leaves the Federal Police headquarters in Brasília with handcuffs, as he was transferred to Presidente Bernardes Prison (SP).

The integration of the police institutions is basic, but that doesn't mean joining everything, as in a bag full of cats. The state military police departments are prepared to act in the ostensive patrol. The Civil Police of the States is more subject to political influences and suffers with the precariousness of means. But they must all be stimulated and motivated, even solving their wage problems, because they are crucial in the public security functions.

As for the legislation, our limitation is obvious. For example, there's an exaggeration in the use of the banking and fiscal secrecy. As I see it, we must turn flexible the access to the protected information by means of the transference of responsibility of data among police and fiscal authorities. Some people don't accept that procedure and I recall that, in the Supreme Federal Tribunal, Minister Nelson Jobim stated that the banking and fiscal secrecy in Brazil is not exacerbated, but it's considered a sacrament. We have advanced a lot towards solving that problem, but it's crucial to end bureaucracy, to make the investigations easier. We have no intention of making anything up. There are the examples of the other countries and the international conventions. It's about copying the best practices, with small adaptations, so that we can lower the wall that I mentioned before, leaving the criminal elites more exposed.

ESTUDOS AVANÇADOS – Do you think that there must be changes in the legislation that presides the fiscalization and the verification of the dirty money laundering?

Palermo Convention

IN THE LAST few years, the world faced a new reality: the crime unions overcame the geographic borders of the countries, with the goal to obtain better results in the criminal operations and to ensure protection and impunity to their agents. That behavior change derived from the multiplication of the flow of commodities, services and people among the countries, as a result of the deepening of the globalization process.

For that reason, the community of the nations understood the importance of the creation of international agreements for a joint action against the organized transnational crime. On December 9th, 1998, the General Assembly of the UN determined the creation of a work committee with the specific objective of elaborating an international convention to face those crimes.

In the following year, in December, 1999, there was a high level meeting in Palermo, Italy, for the signing of the United Nations Convention against the Transnational Organized Crime. That document – the Palermo Convention – expresses the understanding that the countries are facing an extremely serious problem that can only be eliminated through a joint action of the community of the nations.

The Palermo Convention was adopted by the United Nations on November 15th, 2000, in the Millennium General Assembly. It's supplemented by three documents that deal with specific performance areas of the organized crime:

- Protocol to prevent, suppress and punish the traffic of people, mainly women and children;
- Protocol against immigrant smuggling by land, air and sea;

- Protocol against the illegal production and the traffic of firearms, including parts, accessories and ammunitions.

On Article II, the treaty established the following definition:

For the effects of the present Convention, it is understood as: a) **“Organized Criminal Group” – Structured group with three or more people, existent for some time and acting in harmony with the purpose of committing one or more serious infractions or those expressed in this Convention, with the intention of obtaining, directly or indirectly, an economic benefit or another material benefit.**

Several issues were dealt with in those agreements, which the UN has analyzed to exhaustion. Thus, among them, it was determined that the countries commit to criminalize money laundering and to institute a control system of bank institutions and that they can't deny taking the appropriate measures by alleging banking secrecy. The corruption problem was also dealt with in the documents and they contain proposals to aggravate the sanctions against those kinds of crime. The Convention also deals with aspects related to the extradition of criminals and to the transference of prisoners, respecting the national legislation of the countries.

Since the Brazilian National Congress approved, in May, 2003, the text of the Palermo Convention, President Luiz Inácio Lula da Silva confirmed the adhesion of Brazil to that International Law document on March 12, 2004, through Decree n. 5,015.

Getúlio Bezerra – The Brazilian legislation is one of the best in the world, but it's still jammed by certain provisions of the set of the Brazilian legislation. An easier access to the protected data is crucial. Besides, there are studies in the area to improve its application even more. If we desacramentalized the access to the secret data we could advance even faster.

Smuggling in the borders

ESTUDOS AVANÇADOS – The documentation of the Inquiry Parliamentary Commission (CPI) of the arms traffic demonstrates the amount of arms that enters through our borders. Don't you think it's necessary to reinforce repression to that traffic, mainly by the PF, but also by other agencies, such as the Armed Forces?

Getúlio Bezerra – Brazil is a continent. If we try to adopt the idea of a physical control of the borderlines – sixteen thousand kilometers –, not even our army, together with the military from Venezuela, Argentina and from other neighboring countries, would be able to physically “close” that territory. Besides, the issue of those smuggled arms is overestimated, since most of them are produced in Brazil. We have some more problematic focuses, such as the border with Paraguay, due to the normal commercial flow that makes the entrance of arms easier. However, the issue of the harbors might be more alarming.

We have an extremely serious deficiency in the PF, and one that won't be solved in the medium run: the lack of human resources. Our academy is working at full power, but it can't meet all the requirements to qualify the necessary personnel. For that reason, we're moving towards a work supported above all by the use of intelligence and of the greater integration with other security forces, receiving, by the way, the support of our Armed Forces. In those places where there's more traffic we make a more effective work, such as in the border with Paraguay. In the Amazon Region's borders our control is even more precarious. Saying that there are no problems in that border issue won't do it, because indeed there are flaws.

Half a million prisoners

ESTUDOS AVANÇADOS – Don't you consider to be crucial to change certain rules that regulate the functioning of the prisons, to deny the information circulation among prisoners that are inmates in several penal institutions?

Getúlio Bezerra – I'm not a professional of the penitentiary system, but I believe that it should all start from the beginning. There are almost half a million prisoners in Brazil, and if we incarcerate the criminals that are free, in the streets, there wouldn't be enough prisons for all of them. We must only see how the countries treat their prisoners with respect and how they invest in that objective. There's a political issue here, since there's always the doubt if we should increase the investments in health, education, roads, etc., or invest in the penitentiary system, rehabilitation, etc. Today there are only two federal

prisons, but I insist that the entire penitentiary system must be re-equated, since it's a human garbage.

ESTUDOS AVANÇADOS – There's a controversy between the Public Prosecution Service and the police institutions. Wouldn't it be better to extend to the former the function of also investigating the offenses?

Getúlio Bezerra – That proposal is very emotional, which fosters radicalization by some people. If there's too much demand on the institutions, such as in the case of the Federal Police, and they're not able to investigate, there must be a greater integration with the Public Prosecution Service. But there are reservations: it's necessary to integrate with independence and to work in harmony, without choosing specific cases (some select only one or another kind of crime) without wanting to take charge of the entire investigation (from minor thieves to millionaire embezzlements). There are many opinions, but I believe that the most practical one is for the Public Prosecution Service to be in charge of the penal action, the supervisor of the police activity and integrate itself with the police work, leaving the Judiciary Power more independent and less involved in the criminal pursuit. Another tendency is for the Public Prosecution Service to be surrounded by people asked to make isolated investigations, parallel and not integrated with what the police are doing. In some countries the offices of those institutions operate in the same place.

ESTUDOS AVANÇADOS – Do you want to add any message to our readers?

Getúlio Bezerra – We must be more open to criticisms in order to improve the Federal Police. I'm sure that the great headline today is our mistake, since there's a great expectation for us to get things right and to recover the lost time.

Getúlio Bezerra Santos is a bachelor of Law, who graduated in 1977 by the Federal University of Amazonas, with a graduate degree obtained in the year 2000 in Superior Education Methodology by the University of Brasília (UnB). He entered the Federal Police in 1973, as a police agent and, in 1979, he concluded the Course for Federal Chief of Police, in the National Police Academy. He's a member of the Anti-Drugs National Council and is an instructor there. He was the head of the General Police Coordination for the Police Repression to Drugs. He's currently the director of Combat to the Organized Crime. He has represented the PF in several international events in Europe, the United States, Africa and Asia. He has specialization courses, made both in Brazil and abroad, in the areas of Repression to Drugs Traffic, Intelligence Operations Management, Control of Chemical Precursors, Financial Investigation, Task-Force and Teaching Techniques.

Translated by Rodrigo Sardenberg. The original in Portuguese is available at http://www.scielo.br/scielo.php?script=sci_issuetoc&pid=0103-401420070003&lng=pt&nr m=iso.