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I called there [the Espaço Recomeço detention center]. I identified myself as the father. They told me that my son was injured. I learned that he wasn't involved. He hid in the bathroom; others burned mattresses. When I went there, it was horrible. It was horrible. He was burned, limping, his knee was hurt, he was burned everywhere. . . . He'd had no food until Sunday. Friday night and all day Saturday, without eating, just liquids. It was horrible.

-Hamilton A.'s father, referring to the state military police's response to a disturbance in the Espaço Recomeço detention center, Pará, in April 2002

Youths in a punishment cell, Centro de Internação Espaço Recomeço annex, Ananideua, Pará. © 2003
Michael Bochenek/Human Rights Watch.

Cruel Confinement: Abuses Against Detained Children in Northern Brazil

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BRAZIL

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I. SUMMARY

Children in northern Brazil are routinely subjected to beatings by police and detained in centers that fail to safeguard their basic human rights. Once placed in juvenile detention centers, children may suffer further violence from other youths. They are often confined to their cells for lengthy periods of time, with potentially serious consequences for their emotional well-being. Many detained youths do not receive an education and are not offered other opportunities to develop the skills they will need to lead satisfying and productive lives as adults. Girls often lack basic medical care and have fewer opportunities than boys for exercise, recreation, and other activities. Conditions of confinement such as these violate international law and Brazil's Statute of the Child and the Adolescent (*Estatuto da Criança e do Adolescente*).

Human Rights Watch visited seventeen detention facilities in five states—Amapá, Amazonas, Pará, and Rondônia in the Amazon region and Maranhão in the northeast—during a four-week period in April and May 2002. These facilities included seven that were exclusively for sentenced youths, one for youths sentenced to the lesser sanction of “semiliberty” (a measure that youths serve in facilities similar to halfway houses), one nonresidential facility for youths sentenced to probation (*liberdade assistida*), and four pretrial detention centers. The remaining five facilities, including the four girls’ detention centers we inspected, held youth under sentence as well as those in pretrial detention.

Beatings at the hands of police during and after arrest are common, we found. Such abuses often occur at police stations, where Brazilian law allows children to be held for up to five days while they await transfer to a juvenile detention facility. In the state of Amazonas, for example, nearly every boy and girl we spoke with told us that he or she had been hit by police officers while in a local police station. In rural areas, where police routinely violate the five-day limit on detention in police lockups, children are at greater risk of abuse by police.

Once these children are transferred to detention centers, they must often endure further violence from state military police. The state military police—which, despite their name, are subject to civilian control—ensure the external security of detention centers, quell riots and other disturbances, respond to escape attempts, and routinely conduct cell searches. Children who complained of beatings often told us that military police hit them with *cassetetes*, rubber batons with a metal core. “They use batons made of rubber,” said Terence M., who had spent ten months in the Aninga detention center in the state of Amapá. “When they came in for searches, they would hit us.”

We were particularly troubled by the military police’s actions in response to a disturbance on April 5 and 6, 2002, in the Espaço Recomeço detention center in Pará. Military police entered the facility after a small group of youths set fire to their mattresses and attempted to escape. According to official estimates, from four to nine detainees participated in the disturbance, which was contained to a wing that held nineteen youths; four of these youths escaped after they knocked a hole in one of the wing’s walls and climbed a fence. The center called in military police shock troops, who fired tear gas and rubber bullets to quell the disturbance. One youth told Human Rights Watch that military police aimed tear gas canisters directly at him; he had burns, blisters, bruises, and cuts over his face, neck, abdomen, arms, and legs. Other youths reported that police officers beat them with rubber batons and tree branches after they were detained.

When Human Rights Watch visited on the morning of April 8, 2002, the first weekday after the incident, detention center personnel had already cleaned out much of the area, effectively preventing an independent investigation into the incident. When our representative returned to the center at the end of the week, the director of the detention center assured him that the military police had conducted their own investigation and had prepared a report. When we asked to see the report, he claimed not to have a copy.

Many of the precise circumstances of this disturbance will never be known. But the severity of the injuries caused by the military police raise troubling questions about the actions of detention center officials and military police in response to a disturbance that involved a small number of youths and was confined to one area of the

facility. International standards recommend that the use of force be limited to exceptional cases, where all other control methods have been exhausted and failed.

Children also suffer violence at the hands of other youths. When Human Rights Watch interviewed Josefina S., held in the state of Amapá, she bore fresh cuts on her face, neck, and arms that she attributed to a fight with another girl. “She cut me, she wanted to kill me,” she said. “Sometimes that happens.” In the state of Maranhão, a social worker with the nongovernmental children’s defense center told us that youths reported suffering sexual assaults and other acts of violence at the hands of other youth. And Henrique O., speaking of the two months he spent at the Espaço Recomeço detention center in Pará, said, “You spend all of your time locked up there, one person hitting another. There are lots of fights there.” Such accounts starkly illustrate the need to protect children from violence by other detainees and to separate youth by age, physical maturity, severity of offense, and other factors—a requirement of Brazilian law that many detention centers observe only in part.

Physical abuse is not the only human rights violation suffered by children in detention. Upon entering a detention facility, children are routinely confined to their cells for five days or more with no opportunity for exercise or other activity. Euphemistically described as a period of “observation,” “orientation,” “evaluation and integration,” or in one detention center, “therapeutic confinement,” cell confinement is rarely used for any of these purposes. In a comment typical of those we heard from youths, Henrique O. told us that the staff never came to see him during his first five days in the pretrial detention center in Pará. “You spend five days locked up, with the door bolted,” he said. Iolanda D.’s description of her introduction to the girls’ detention center in Pará was similar. “The first day I arrived, they searched me and then put me in confinement. I spent eighteen days there, in confinement, just me. I couldn’t do anything. I couldn’t leave. No classes, just to see the doctor. Classes were only afterward, not during confinement.”

Cell confinement is also used as the primary formal disciplinary measure. Human Rights Watch found that most detention centers have no clear standards or procedures for the use of cell confinement as a disciplinary measure, and there appear to be no limits on the length of time that children may be confined to their cells. In the Espaço Recomeço detention center in Pará, for example, we spoke to youths who had been held in cell confinement for more than two months. In the state of Amazonas, children reported that they had been placed in cell restriction for up to fifteen days. In contrast, detention facilities in the state of Amapá now limit disciplinary cell confinement to forty-eight hours.

The distinction between confinement for “observation” and disciplinary confinement is often blurred, and youths and guards alike commonly used the same word, *contenção*, to describe both forms of cell confinement. Where children are housed during periods of cell confinement varies from center to center, with some placing children in punishment cells and others restricting children to their normal living quarters. Some children reported that they were completely isolated from other youths during this time. Others told us that they were confined in cells with other children. While in cell confinement, the activities that youths are permitted to take part in—and consequently the length of time they are physically out of their cells each day—varies widely.

Cell confinement can have a serious adverse effect on a child’s emotional well-being, particularly when he or she is confined for lengthy periods of time. “For me, the worst thing was being in isolation,” reported Patrícia D., describing her time in the Aningá detention center in the state of Amapá. “I was very sad. I stayed there a long time, more than a month inside there without leaving or anything. . . . For me, that was the worst.” International standards emphasize children’s need for “sensory stimuli [and] opportunities for association with peers.” Lengthy periods of cell confinement can inflict mental suffering on children, depriving them of the interaction with peers that they need to maintain their emotional well-being. In some cases, particularly when children are isolated or confined in close quarters for extended periods of time, cell confinement may constitute cruel, inhuman, or degrading treatment, in violation of international law.

Apart from these two types of cell confinement, children in most detention centers spend some part of each day in their cells, usually before or after meals. In some detention centers, these “lockdown” periods may last for several

hours. As a result, idleness is a serious problem in many of the detention centers we visited, particularly the Espaço Recomeço detention center in Pará, the Aninga detention center in Amapá, the Raimundo Parente detention center in Amazonas, and the Casa do Adolescente, the boys' detention center in Rondônia. Children in each of these facilities told us that they spent significant portions of their day locked in their cells with nothing to do.

Girls reported that they spent more time out of their cells than boys do, but they do not generally receive recreational opportunities on par with those afforded to boys. None of the girls' detention centers offered opportunities for them to play sports, the primary means of large-muscle exercise for youths in detention. They appeared to spend much of their recreation time sewing, engaged in other crafts, or asleep.

With the exception of several facilities in the state of Pará, children generally reported that they were able to see visitors for two hours or more during one or two days each week. In Pará, youths in the boys' pretrial detention center and the Espaço Recomeço center told us that those in cell confinement had shortened visitation hours or were denied visitation rights altogether. Similarly, we heard that pretrial detainees in the girls' detention center in Pará could not receive visits. Facilities in the state of Amapá, in contrast, had particularly generous visitation policies, permitting family members to visit throughout the week.

Most youths reported that they were provided with bedding and mattresses or hammocks on their arrival. But some youths in the Espaço Recomeço detention center in Pará and the Casa do Adolescente in Rondônia told us that they had slept on the floor without a mattress at some point during their time in detention. In addition, youth in the Espaço Recomeço center consistently reported problems with hygiene and access to water.

The infrastructure of two detention centers was particularly inadequate. The Casa do Adolescente, the boys' detention center in Porto Velho, Rondônia, had two small dormitories and two cells for twenty-five youths. These physical limitations and the staff's practice of setting aside one of the dormitories for a privileged group of four or five meant that most youths were confined together in exceptionally close quarters. The Centro Sócio-Educativo Marise Mendes, the girls' detention center in Amazonas, had two dormitories for up to twenty-four girls in crowded conditions, leading to frequent conflicts. In response, staff often resorted to placing girls in the punishment cells in the center when they could not get along with others in the dormitories.

The majority of youth in detention have only completed between one and four years of primary education. Many are illiterate. Access to schooling would be particularly beneficial for these youth. But many youths do not receive an education while they are in detention, in violation of the Brazilian Constitution and international law. In the pretrial detention unit and the Raimundo Parente detention center in Amazonas, no classes were offered at the time of our visit in April 2002. In other detention centers, such as the Espaço Recomeço detention center in Pará and the boys' detention center in Rondônia, we found that some children received schooling while others did not. In particular, youths who were confined to their cells frequently reported that they could not attend classes.

Every facility we visited offered basic medical services to children in detention, and most youths reported that they were able to see medical staff upon request. But youths do not always receive routine medical examinations on admission, and girls are not routinely offered gynecological examinations. In one case, a girl reported that she had not received prenatal care during her time in detention. Seven months pregnant at the time of our interview, Inês F. told us that she had not seen a doctor at all during a period of at least four weeks.

Most detention centers fail to investigate complaints of abuses; indeed, most centers had no meaningful complaint mechanism. Officials in Manaus, capital of the state of Amazonas, were the only ones to raise the issue of abuses by guards and military police and discuss it forthrightly with Human Rights Watch. "I can't hide this," said Paulo Sampeio, the director of the Amazonas Department of the Child and the Adolescent, "because if I do, I perpetuate it."

Brazilian law guarantees youths the right to legal representation, including free legal assistance for those in need, meaning that in theory, a child could ask his or her attorney for assistance in making a complaint. In practice, however, few of the youths we interviewed had actually spoken to their legal counsel. Nearly all were represented by the public defender's office.

* * *

This report is based on a four-week fact-finding mission in northern Brazil. Our researcher visited seventeen juvenile detention centers in the states of Amapá, Amazonas, Maranhão, Pará, and Rondônia. The facilities we visited included pretrial detention centers in each state and detention centers for girls in four of the five states. During these visits, our researcher conducted private interviews with forty-four youths, eight of them girls.

Our researcher was able to take photographs in every facility. Most detention center officials asked only that we refrain from photographing the faces of children, as required by Brazilian law. The sole exception was in the Casa do Adolescente in Porto Velho, Rondônia, where an official told our researcher that the detention center rules forbade photographs. The circumstances suggest that the official invented this rule on the spot: He made this statement when our researcher began to photograph a particularly squalid punishment cell after taking dozens of photographs elsewhere in the center, and he refused to provide his full name to the researcher, identifying himself as "just Antônio."¹

This is the sixteenth Human Rights Watch report on juvenile justice and the conditions of confinement for children. In the Americas, Human Rights Watch has investigated and reported on juvenile justice issues in Brazil, Guatemala, Jamaica, and the U.S. states of Colorado, Louisiana, Georgia, and Maryland. Elsewhere in the world, Human Rights Watch has documented detention conditions for children in Bulgaria, Egypt, India, Kenya, Northern Ireland, Pakistan, and Turkey.

Prisons, jails, police lockups, and other places of detention pose special research problems because detainees, especially children, are vulnerable to intimidation and retaliation. In the interests of accuracy and objectivity, Human Rights Watch bases its reporting on firsthand observation of detention conditions and direct interviews with detainees and officials. Following a set of self-imposed rules in conducting investigations, Human Rights Watch undertakes visits only when our researchers, not the authorities, can choose the institutions to be visited, when they can be confident that they will be allowed to talk privately with the detainees of their choice, and when they can gain access to the entire facility to be examined. These rules ensure that our investigators are not shown "model" detention centers, "model" inmates, or the most presentable parts of the facilities under investigation. In the rare cases in which entry on these terms is denied, Human Rights Watch may conduct its investigations on the basis of interviews with former detainees, relatives of detainees, lawyers, prison experts, and detention center staff, as well as a review of documentary evidence.

As Human Rights Watch does when it works with other vulnerable groups, it takes particular care to ensure that interviews of children are confidential, conducted with sensitivity, and free from any actual or apparent outside influence. It does not print the names or other identifying information of the children in detention whom researchers interview. In this report, all children are given aliases to protect their privacy and safety.

Human Rights Watch assesses the treatment of children according to international law, as set forth in the Convention on the Rights of the Child; the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; and other international human rights instruments. The U.N. Standard Minimum Rules for the Administration of Juvenile Justice, the U.N. Rules for the Protection of Juveniles Deprived of their Liberty, and the U.N. Standard Minimum Rules for the Treatment of Prisoners provide authoritative guidance on the content of international obligations in detention settings.

¹ Human Rights Watch interview with "Antônio," detention center official, Casa do Adolescente, Porto Velho, Rondônia, April 24, 2002.

In this report, the word “child” refers to anyone under the age of eighteen, consistent with international standards.² This use differs from the definition of “child” in Brazil’s juvenile justice law, which makes a distinction between persons under the age of twelve (who are considered “children”) and those between twelve and seventeen years of age (“adolescents”).³

II. RECOMMENDATIONS

To state detention authorities

Admission, Observation, and Classification

- End the routine use of cell confinement upon admission to a juvenile detention facility.
- In accordance with the Statute of the Child and the Adolescent, separate children by age, physical maturity, demeanor, and offense.
- House young adults between the ages of eighteen and twenty-one separately from detainees under the age of eighteen.

Conditions of Confinement

- Ensure that the conditions of confinement for children meet all of the requirements of health, safety, and human dignity.
- Provide every child with a mattress or hammock and clean bedding, which should be changed often enough to ensure cleanliness.

Disciplinary Practices

- Prohibit the use of disciplinary measures that involve closed or solitary confinement or any other punishment that may compromise the physical or mental health of the child.
- Use cell confinement only when absolutely necessary for the protection of a child. Where necessary, it should be employed for the shortest possible period of time and subject to prompt and systematic review.
- Provide clear guidelines for detention center staff who impose discipline.
- Establish procedures for reviewing decisions to impose discipline on youths.
- Ensure that every child understands the rules of the detention center. In particular, provide children with a clear description of the behaviors that are prohibited and the sanctions for each behavior. Post the rules in prominent places accessible to children in detention.

Complaint System

- Establish a complaint system independent of guards and military police. Complaints should be investigated thoroughly. Detention center staff who perpetrate violence should be appropriately disciplined and removed from duties that bring them into contact with youths. Particularly serious cases should be referred to the Ministério Público (the office of the attorney general) and judicial authorities for investigation.

Monitoring

- Establish an effective, independent body to monitor the treatment of youths in detention.
- Following the example of the state of Pará, guarantee legal support and human rights groups the right to visit detention centers and speak with detained youths.

² The Convention on the Rights of the Child defines as a child “every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.” Convention on the Rights of the Child, *adopted* November 29, 1989, G.A. Res. 44/25, U.N. Doc. A/RES/44/25 (entered into force September 2, 1990). Brazil ratified the Convention on the Rights of the Child on September 25, 1990.

³ See Estatuto da Criança e do Adolescente, Law No. 8,069 of July 13, 1990, art. 2.

Education

- In accordance with Brazilian law and international obligations, provide every person held in a juvenile detention facility with an education suited to his or her needs and abilities and designed to prepare him or her for return to society.
- Ensure that the schooling provided in juvenile detention facilities is recognized by local education authorities.

Health

- Following the recommendation of the U.N. special rapporteur on torture, have a qualified medical professional available to examine every person upon entry to and exit from a place of detention. These professionals should have sufficient medical supplies to meet the detainees' medical needs and the authority to have a detainee transferred to a hospital independent of the detaining authority if the detainee's needs cannot be met at the detention center.
- Ensure that detention centers, notably those in the state of Rondônia, provide information and education on prevailing health problems and their prevention and control.
- Provide youths in all detention centers with access to HIV-related prevention information, education, voluntary testing and counseling, and means of prevention, including condoms.
- Ensure that HIV testing of youths in detention be performed only with their specific informed consent. Pre- and post-test counseling should be provided in all cases.

Infrastructure

- Renovate the physical infrastructure of those detention centers that have fallen into severe disrepair or are inadequate for the size and needs of their population. In particular, the state of Rondônia should rebuild the Casa do Adolescente in Porto Velho, and the state of Amazonas should expand the capacity of the Centro Sócio-Educativo Marise Mendes, its girls' detention center.

Girls in Detention

- Provide appropriate basic medical services for girls, including routine and timely gynecological examinations.
- Provide prenatal care for girls who require it.
- Give girls sufficient opportunities for recreation and exercise, including large-muscle exercise.

To the State Military Police

- Train military police officers in Brazilian law and international norms that mandate the humane treatment of youths in detention.
- Limit police use of force to that strictly necessary to prevent youths from inflicting self-injury, injuries to others, or serious destruction of property. The use of force should be limited to exceptional cases, where all other control methods have been exhausted and failed; it should never cause humiliation or degradation.

To state judicial authorities

- Sentence youths to deprivation of liberty only as measure of last resort and for the shortest appropriate period of time, as required by the Convention on the Rights of the Child and Brazil's Statute of the Child and the Adolescent.

To state legislatures

- Authorize funding for municipalities, particularly those located in Brazil's interior, to establish and staff programs to administer the less-restrictive socioeducational measures of semiliberty (a measure that youths serve in facilities similar to halfway houses) and probation (*liberdade assistida*).

To the Office of the Attorney General (Ministério Público)

- Routinely investigate the military police's response in riots and similar disturbances and bring charges against officers found to have employed excessive force.

To the federal Ministry of Justice

- Devote a portion of the federal funding for training of juvenile detention staff to specialized training on international standards, the Statute of the Child and the Adolescent, and strategies appropriate for dealing with children and adolescents.
- Direct federal funding for the construction of new detention units or the reform of existing units toward detention facilities that are designed to meet the requirements of health and human dignity and the rehabilitative aim of residential treatment, with due regard for the needs of children for privacy, sensory stimuli, opportunities for association with peers, and participation in sports, physical exercises, and leisure-time activities.

To the federal Ministry of Foreign Relations

- Submit Brazil's overdue report to the Committee on the Rights of the Child on the country's compliance with the requirements of the Convention on the Rights of the Child.

To the Inter-American Commission on Human Rights

- Consider conducting an on-site visit to Brazil with a specific focus on children in detention.

III. AN OVERVIEW OF JUVENILE DETENTION IN NORTHERN BRAZIL

Just under 400 youths were held in juvenile detention centers in the five states we visited in April 2002. At the time of our visit, the state of Rondônia had the lowest number of youths in detention, with a total of twenty-four in the two facilities in its capital, Porto Velho. Amazonas had the largest number of youths in detention, with a total of 114. Maranhão had sixty-seven youths in detention, Amapá held seventy-seven, and Pará had a total of eighty-eight youths.⁴ Girls accounted for less than 12 percent of the total number of youths detained in these five states. In April 2002, there were six girls in detention in Amapá, twenty-four in Amazonas, three in one of Maranhão's two detention centers for girls, eight in Pará, and four in Rondônia.⁵

Beatings at the hands of police during and after arrest are common. Such abuses often occur at police stations, where Brazilian law allows children to be held for up to five days while they await transfer to a juvenile detention facility. In the state of Amazonas, for example, nearly every boy and girl we spoke with told us that he or she had been hit by police officers while in a local police station. In rural areas, where police routinely violate the five-day limit on detention in police lockups, children are at greater risk of abuse by police.

Brazilian law guarantees youths the right to legal representation, including free legal assistance for those in need, meaning that in theory, a child could ask his or her attorney for assistance in making a complaint. In practice,

⁴ Human Rights Watch interviews with Raimundo Monteiro, director, Centro de Internação Espaço Recomeço, Ananideua, Pará, April 8, 2002; staff, Centro de Internação de Adolescentes Masculino, Ananideua, Pará, April 9, 2002; staff, Centro Juvenil Masculino, Ananideua, Pará, April 10, 2002; staff, Centro de Internação de Adolescentes Feminino, Ananideua, Pará, April 11, 2002; Angela Pompeu, manager, Centro Sócio-Educativo Masculino, Ananideua, Pará, April 12, 2002; Maria de Socorro Gatinho Ribeiro, director, General Program Department, Foundation of the Child and the Adolescent, Macapá, Amapá, April 15, 2002; Dione Maria Pereira Baquil, coordinator, Socio-Educative Area, Foundation of the Child and the Adolescent, São Luís, Maranhão, April 19, 2002; Paulo Alfonso Sampeio, director, Department of the Child and the Adolescent, Manaus, Amazonas, April 22, 2002; staff, Casa do Adolescente, Porto Velho, Rondônia, April 24, 2002; staff, Casa da Adolescente, Porto Velho, Rondônia, April 25, 2002.

⁵ Ibid.

however, few of the youths we interviewed had actually spoken to their legal counsel. Nearly all were represented by the public defender's office.

The Statute of the Child and Adolescent

Brazil has a national juvenile justice law, part of the Statute of the Child and the Adolescent (Estatuto da Criança e do Adolescente). Adopted in 1990, the statute was a comprehensive reform to implement Brazil's obligations under the Convention on the Rights of the Child.⁶ (The adult criminal justice system is also governed by a single national law.⁷)

Youths between the ages of twelve and seventeen, whom the statute terms "adolescents," are criminally responsible under Brazil's juvenile justice law. The provisions relating to detention provide that youths may be held in juvenile detention centers up to the age of twenty-one. Delinquent children under the age of twelve are not criminally responsible; instead, they are treated as children in need of protection.⁸

There is some popular support in Brazil, as in other countries in the region, for reducing the age at which children can be charged with a crime. "There is a very strong tendency toward lowering the age of criminal responsibility," said Francisco Lemos, a staff attorney with the nongovernmental Center for the Defense of Children's and Adolescents' Rights (Centro de Defesa dos Direitos da Criança e do Adolescente) in São Luís, capital of the state of Maranhão. Joisiane Gamba, an attorney with the Maranhão Society for Human Rights (Sociedade Maranhense de Direitos Humanos), a nongovernmental organization based in São Luís, added, "These efforts intensified after September 11," the date of the 2001 terrorist attacks in the United States.⁹

The movement toward lowering the age of criminal responsibility is due in part to an inaccurate perception that violent youth crime is prevalent. As Lemos notes, "Most crimes are committed by adults. Ten percent of all illegal acts are committed by adolescents, and these acts are often crimes against property."¹⁰

Once arrested, a youth should be released to a parent or a responsible adult; deprivation of liberty should be limited to serious cases in which the youth's safety or the public order require it.¹¹ If they are detained, youths may be held in police lockups for no more than five days, after which they must be released or transferred to a juvenile detention center.¹² But the five-day limitation may not provide youths with the protection they need—police stations are subject to less independent oversight than juvenile detention centers, and both youths and adults routinely report that they are subjected to beatings and torture at the hands of police during and after arrest.¹³ "The police are very aggressive," said Tobias V., held in the Espaço Recomeço detention center in

⁶ Estatuto da Criança e do Adolescente, Law No. 8,069 of July 13, 1990. The federal government has also adopted a law against torture. See Lei da Tortura, Law No. 9,455 of April 7, 1997.

⁷ See Lei de Execução Penal, Decree-Law No. 7,210 of July 11, 1984.

⁸ Estatuto da Criança e do Adolescente, arts. 2, 105, 121. See also Munir Cury et al., coords., *Estatuto da Criança e do Adolescente comentado: comentários jurídicos e sociais*, 4th ed. (São Paulo: Malheiros Editores Ltda., 2002), pp. 14-15, 334-35.

⁹ Human Rights Watch interview with Francisco Lemos, staff attorney, Centro de Defesa dos Direitos da Criança e do Adolescente Padre Marcos Passerini, and Joisiane Gamba, attorney, Sociedade Maranhense de Direitos Humanos, São Luís, Maranhão, April 18, 2002.

¹⁰ Human Rights Watch interview with Francisco Lemos, April 18, 2002.

¹¹ "Comparecendo qualquer dos pais ou responsável, o adolescente será prontamente liberado pela autoridade policial, sob termo de compromisso e responsabilidade de sua apresentação ao representante do Ministério Público, no mesmo dia ou, sendo impossível, no primeiro dia útil imediato, exceto quando, pela gravidade do ato infracional e sua repercussão social, deva o adolescente permanecer sob internação para garantia de sua segurança pessoal ou manutenção da ordem pública." Estatuto da Criança e do Adolescente, art. 174.

¹² "Sendo impossível a pronta transferência, o adolescente aguardará sua remoção em repartição policial, desde que em seção isolada dos adultos e com instalações apropriadas, não podendo ultrapassar o prazo máximo de cinco dias, sob pena de responsabilidade." *Ibid.*, art. 185, para. 2.

¹³ See, for example, Human Rights Watch/Americas, *Police Brutality in Urban Brazil* (New York: Human Rights Watch, 1997), pp. 28-31; Human Rights Watch, *Behind Bars in Brazil* (New York: Human Rights Watch, 1998), pp. 38-44.

Pará.¹⁴ In Amazonas, nearly every boy and girl we spoke with told us that he or she had been hit by police officers while they were held in local police stations. “There’s a lot of mistreatment there, in the police lockups,” Fernando A. reported. “The police beat me, and I had to go to the hospital,” Elden D. said. When we asked him why the police beat him, he replied, “Because I was charged with homicide.” Maurício O. told Human Rights Watch, “They beat you to make you talk.”¹⁵ Although the girls we interviewed did not describe incidents of sexual harassment, the Human Rights Commission of the Chamber of Deputies (Comissão de Direitos Humanos da Câmara dos Deputados) reported that during its March 2001 inspection, two of the three girls in the girls’ detention center in Pará said that police officers routinely solicited sex from the girls held in police lockups. “The two cases give notice of incidents of sexual harassment in which unscrupulous police officers promised to free girls if they agreed to render sexual favors,” the commission concluded.¹⁶

For the most part, the youths we interviewed told us that they were held in local police stations for five days or less. However, youths from rural areas reported that they were held in police custody for longer than the five-day maximum specified in the Statute of the Child and Adolescent. For example, Maurício B., arrested in the interior of Amazonas state when he was fifteen, told us that he spent three months in a police lockup before he was transferred to the pretrial detention facility in Manaus.¹⁷

Youths may be held in pretrial detention “for a maximum period of forty-five days”;¹⁸ the statute further provides that if an adolescent is placed in pretrial detention, “the maximum and nonextendable period for conclusion of the [judicial] proceedings shall be forty-five days.”¹⁹ The forty-five-day period appears to include pretrial detention time in police lockups: The term for detention (*internação*) is used elsewhere in the statute to refer to time in police custody before transfer to a pretrial detention center.²⁰ Accordingly, a youth held for five days in a local police station before transfer to a pretrial detention center should only be held for another forty days. A public defender in Rio de Janeiro confirmed our interpretation of this provision, telling us that his office viewed the forty-five-day period as beginning at the moment of arrest.²¹ In practice, however, detention officials regard the forty-five-day period as commencing with the day of arrival at the pretrial detention facility.

With this exception, detention authorities and judges appeared to observe the limit on pretrial detention scrupulously. We heard of no other youths who had been held for longer than forty-five days in a pretrial detention center except in the state of Amapá. Following the lead of a São Paulo court, the Amapá juvenile courts have authorized pretrial detention for an additional forty-five days when they find youths to be dangerous and violent.²² Such extensions appear to violate the statute’s provisions for the maximum length of pretrial detention and the “maximum and nonextendable” period for judicial proceedings.

¹⁴ Human Rights Watch interview, Centro de Internação Espaço Recomeço, Ananideua, Pará, April 8, 2002.

¹⁵ Human Rights Watch interviews, Unidade de Internação Provisória, Manaus, Amazonas, April 23, 2002.

¹⁶ Câmara dos Deputados, Comissão de Direitos Humanos, *IV Caravana Nacional de Direitos Humanos: uma amostra da situação dos adolescentes privados de liberdade nas FEBEMs e congêneres: o sistema Febem e a produção do mal* (Brasília: Câmara dos Deputados, Centro de Documentação e Informação, Coordenação de Publicações, 2001), p. 37.

¹⁷ Human Rights Watch interview, Centro Sócio-Educativo Assistente Social Dagmar Feitoza, Manaus, Amazonas, April 22, 2002.

¹⁸ “A internação, antes da sentença, pode ser determinada pelo prazo máximo de quarenta e cinco dias.” Estatuto da Criança e do Adolescente, art. 108.

¹⁹ “O prazo máximo e improrrogável para a conclusão do procedimento, estando o adolescente internado provisoriamente, será de quarenta e cinco dias.” *Ibid.*, art. 183.

²⁰ For example, the statute notes that after apprehension, a youth should remain in detention (*internação*) only in serious cases. *Ibid.*, art. 174.

²¹ Human Rights Watch interview with Carlos Benati, public defender, Rio de Janeiro, September 11, 2002.

²² See Auto No. 4257/2001, Vara da Infância e da Juventude da Comarca de Santana, November 29, 2001, citing Habeas Corpus No. RJTSP 133/259, Tribunal de Justiça de São Paulo, n.d., and Habeas Corpus No. 502/99, Tribunal de Justiça do Estado do Amapá, 1999.

Delinquent youths may be sentenced to any of six “socioeducational measures”: warning, reparations, community service, probation (*liberdade assistida*), semiliberty, and confinement in a detention center.²³ The strictest of these measures, detention (*internação*), is “subject to the principles of brevity, exceptionality, and respect for the individuality of the developing person.”²⁴ This principle conforms to the standard set forth in the Convention on the Rights of the Child, which provides that arrest, detention, and imprisonment of a child “shall be used only as a measure of last resort and for the shortest appropriate period of time.”²⁵

Judges do not always apply the law with that understanding, however. “The relationship with the judiciary is difficult,” said one official in the Amapá Foundation of the Child and the Adolescent. “Detention is supposed to be the last resort. But the judges don’t understand it that way. . . . There’s a lot of confusion with regard to the Statute of the Child and the Adolescent throughout the state.”²⁶

Detention may last no more than three years and may not extend beyond the age of twenty-one.²⁷ Regardless of the length of the sentence, the judge must reevaluate the decision to detain a child at least every six months. As part of this review process, social workers with the detention centers must file semiannual reports on each youth in detention. These reports may recommend early release for a child, but “the judge doesn’t always respond quickly,” said Loide Gomes da Silva Ferreira, a social worker with the Center for the Defense of Children’s and Adolescent’s Rights in São Luís.²⁸

In practice, the less restrictive measure of semiliberty is often employed once a youth has spent a period of time in detention. “Semiliberty is generally used as a progression. An adolescent doesn’t go there directly. Instead, an adolescent will transition from detention to semiliberty,” said Francisco Lemos.²⁹ In Amapá, however, we spoke to several youths, including those charged with serious acts, who had been sentenced to less restrictive measures at the outset. For example, Jacó G., a fifteen-year-old, was found guilty of homicide and placed directly in the semiliberty unit.³⁰

Most states in the region have endorsed municipal, rather than state-level, administration of the “open” socioeducational measures, including probation. However, many rural areas lack the infrastructure and personnel to administer them. “There are some that could be completing another measure, but the judge sends them here,” said Maria Luiza Jarolim, a psychologist in the Espaço Recomeço detention center in Pará. Five of the youths in detention in the facility, including the two fifteen-year-olds, were being held because the court had found them to be youths at risk. Jarolim told us that judges had sentenced the youths to detention because there was no administrative capacity for less-restrictive sentencing measures in rural areas of the state.³¹

In addition, “judges in the interior do not have an understanding of the Statute of the Child and Adolescent,” said Francisco Lemos.³² We heard similar comments from those who worked with youths in other states. “In practice, they still follow the old Minors’ Code,” said Márcio da Silva Cruz, an attorney with Cedeca/Emaús in Belém.³³

²³ Estatuto da Criança e do Adolescente, art. 112. For a brief description of these measures, see Mário Volpi, ed., *O adolescente e o ato infracional*, 4th ed. (São Paulo: Cortez Editora, 1997), pp. 23-44.

²⁴ “A internação constitui medida privativa da liberdade, sujeita aos princípios de brevidade, excepcionalidade e respeito à condição peculiar de pessoa em desenvolvimento.” Estatuto da Criança e do Adolescente, art. 121.

²⁵ Convention on the Rights of the Child, art. 37(b).

²⁶ Human Rights Watch interview, Foundation of the Child and the Adolescent, Macapá, Amapá, April 15, 2002.

²⁷ Estatuto da Criança e do Adolescente, art. 121, paras. 2-5.

²⁸ Human Rights Watch interview with Loide Gomes da Silva Ferreira, social worker, Centro de Defesa dos Direitos da Criança e do Adolescente Padre Marcos Passerini, São Luís, Maranhão, April 18, 2002.

²⁹ Human Rights Watch interview with Francisco Lemos, April 18, 2002.

³⁰ Human Rights Watch interview, Macapá, Amapá, April 15, 2002.

³¹ Human Rights Watch interview with Maria Luiza Jarolim, psychologist, Centro de Internação Espaço Recomeço, Ananideua, Pará, April 8, 2002.

³² Human Rights Watch interview with Francisco Lemos, April 18, 2002.

³³ Human Rights Watch interview with Márcio da Silva Cruz, attorney, Cedeca-Emaús, Belém, Pará, April 5, 2002.

As a result of these factors, Lemos observes that many children who should receive less-restrictive measure are instead placed in detention.³⁴

Legal Representation

Brazilian law guarantees youths the right to legal representation, including free legal assistance to those in need.³⁵ While every one of the youths with whom we spoke was aware that he or she had legal representation, usually provided by the public defender, few had actually spoken with their legal counsel about their cases. The following comments were typical of those we heard from youths in the course of our interviews:

- Gilson R., a detainee in the Espaço Recomeço detention center, who was represented by the public defender, said, “He never talked with me. He came to EREC once, but he just walked by. He didn’t come to see me.”³⁶ (The Espaço Recomeço detention center is commonly referred to by the acronym *EREC*).
- “I have a lawyer, the public defender,” said Damião P., fifteen. “He didn’t speak with me.”³⁷
- Edison L., who had spent fifteen days in pretrial detention at the time of our interview, told us he was represented by the public defender. “I haven’t seen him. He wasn’t at the court when I went.”³⁸
- “I spoke with her once, in the courtroom,” said Flávio M. “I didn’t see her in EREC.”³⁹
- “I have a public defender, but I haven’t spoken with him,” Graça Q. told us.⁴⁰

Sir Nigel Rodley, then the U.N. special rapporteur for torture, observed in 2001 that “in many states public defenders . . . are paid so poorly in comparison with prosecutors that their level of motivation, commitment and influence are severely wanting, as is their training and experience.”⁴¹

Juvenile Detention Facilities

Human Rights Watch visited five states in northern and northeastern Brazil in the course of conducting research for this report. Four of these states—Amapá, Amazonas, Rondônia, and Pará—are in the Amazon region. The fifth, Maranhão, is the westernmost state in Brazil’s northeast region and borders the state of Pará. We visited a total of fifteen detention centers, including four facilities that housed girls. This total also included four pretrial detention centers, one in each of the four states that have separate facilities for such detainees. In addition, we visited two centers for children sentenced to the less restrictive sanctions of semiliberty (a measure that youth serve in facilities similar to halfway houses) and probation (*liberdade assistida*). In all, we visited the following facilities (a brief description of each appears in the appendix to this report):

Amapá	Centro Educacional Açucena Centro Educacional Aninga Centro de Internação Provisória Centro Semilibertade
Amazonas	Centro Sócio-Educativo Assistente Social Dagmar Feitoza Centro Sócio-Educativo Marise Mendes

³⁴ Human Rights Watch interview with Francisco Lemos, April 18, 2002.

³⁵ Estatuto da Criança e do Adolescente, art. 111.

³⁶ Human Rights Watch interview, Centro de Internação Espaço Recomeço annex, Ananideua, Pará, April 8, 2002.

³⁷ Human Rights Watch interview, Centro de Internação Espaço Recomeço annex, Ananideua, Pará, April 8, 2002.

³⁸ Human Rights Watch interview, Centro de Internação de Adolescentes Masculino, Ananideua, Pará, April 9, 2002.

³⁹ Human Rights Watch interview, Centro Juvenil Masculino, Ananideua, Pará, April 8, 2002.

⁴⁰ Human Rights Watch interview, Centro de Internação de Adolescentes Femenino, Ananideua, Pará, April 11, 2002.

⁴¹ U.N. Economic and Social Council, Commission on Human Rights, 57th sess., agenda item 11(a), Civil and Political Rights, Including the Questions of Torture and Detention, *Report of the Special Rapporteur, Sir Nigel Rodley, submitted pursuant to Commission on Human Rights resolution 2000/43, Addendum: Visit to Brazil*, para. 162.

	Centro Sócio-Educativo Senador Raimundo Parente Unidade de Internação Provisória
Maranhão	Centro de Juventude Esperança Centro de Internação Provisória
Pará	Centro de Internação Espaço Recomeço (EREC) Centro de Internação de Adolescentes Masculino (CIAM) Centro Juvenil Masculino (CJM) Centro de Internação de Adolescentes Feminino (CIAF) Centro Sócio-Educativo Masculino (CESEM)
Rondônia	Casa do Adolescente Casa da Adolescente

With the exception of Maranhão, which has pretrial detention centers in São Luís and Imperatriz, juvenile detention facilities in every state are located only in the metropolitan area of the capital. This imposes a hardship on many detainees from rural areas. Commenting on the situation in Pará, the Chamber of Deputies' Commission on Human Rights has observed:

This circumstance—the concentration of detention units in the capital—already evidences a serious structural problem, as adolescents from the interior of Pará who receive measures of deprivation of liberty must be transferred to Belém. In the majority of cases, this will mean a lack of visits on the part of their family members, who are invariably poor and unable to come up with the cost of travel. Thus, many of the detained adolescents will not only be deprived of their liberty, they will also be alone.⁴²

The commission's observation applies to families from rural areas in every state we visited. The obstacles to visitation are particularly acute for youths in Amazonas, where the enormous expanse of territory and the absence of roads in much of the state require many families to travel by boat for two to three days or more each way to reach the capital.

Responsible Authorities

Juvenile detention centers in Brazil are administered by state rather than federal authorities. Each of the twenty-six states and the federal district of Brasília has its own organizational structure, develops its own policies, and manages a separate set of juvenile detention facilities.

The structure of state juvenile systems varies, but nearly all administer juvenile detention centers through agencies that also oversee programs for youths in need of protection. Some states place these administrative functions within their secretariats of social welfare, often in government agencies that are known as "foundations." For example, in Maranhão the Foundation of the Child and the Adolescent (Fundação da Criança e do Adolescente) is a branch of the Social Development Directorate (Gerência de Desenvolvimento Social). In Amazonas, the Department of the Child and the Adolescent (Departamento da Criança e do Adolescente) is part of the Secretariat of State for Employment and Social Assistance (Secretaria do Estado de Trabalho e Assistência Social).

⁴² "Essa circunstância – a concentração de unidades de internação existentes na capital – já evidencia um problema estrutural bastante grave, uma vez que adolescentes do interior do Pará que recebam medidas de privação de liberdade devem ser encaminhados a Belém. Na maioria dos casos, isso implicará a ausência de visitas por parte de seus familiares, invariavelmente pobres e impossibilitados de arcar com os custos do deslocamento. Assim, muitos dos adolescentes internados não estarão apenas privados de sua liberdade, estarão, também, sós." Comissão de Direitos Humanos, *IV Caravana Nacional de Direitos Humanos*, p. 25.

Independent Monitoring

International standards call for independent, objective monitoring of juvenile detention centers as a critical safeguard against abuses in detention.⁴³ Many abuses in juvenile detention centers, as in adult prisons, occur because they are closed institutions subject to little outside scrutiny. Abuses are less likely if officials know that outsiders will inspect their facilities and call attention to abuses. Regular access to juvenile detention facilities by a variety of outside monitors—from judges to national and international human rights groups to legislative commissions—can play an immensely positive role in preventing or minimizing human rights abuses.

The office of the attorney general, known as the Ministério Público, may inspect public and private entities and programs for children, including juvenile detention centers.⁴⁴ The statute gives the representative of the Ministério Público “free access to every locality in which a child or adolescent is to be found.”⁴⁵

Acting upon a request from the attorney general’s office or on his or her own initiative, a judge may hold a hearing to examine juvenile detention conditions. The judge may temporarily remove the director of a center pending the hearing. Under the statute, the judge may also order the “definitive removal” of the director and may impose a fine or admonition on the director.⁴⁶ The statute does not specify other remedial measures that the judge may order.⁴⁷ By contrast, the adult penal law specifically authorizes the judge to “close, in all or in part, any penal establishment that is functioning under inadequate conditions or infringing the provisions of [the national penal law].”⁴⁸

State and federal bodies, including official human rights commissions, may also monitor juvenile detention conditions. At the federal level, the Human Rights Commission of the Chamber of Deputies has inspected juvenile detention facilities in at least five states—Minas Gerais, Pará, Rio Grande do Sul, São Paulo, and Sergipe—issuing a book-length report of its findings in 2001.⁴⁹ At the state and local levels, human rights councils often exist and, in theory, are able to inspect juvenile and adult detention facilities. In Rondônia, for example, members of the State Council of Human Rights (Conselho Estadual de Direitos Humanos) regularly enter the juvenile detention centers in Porto Velho.

The primary independent organizations involved in monitoring juvenile detention centers are the Centers for the Defense of the Child and the Adolescent, nongovernmental organizations that operate in many states. There are centers in Maranhão and Pará, two of the five states visited by Human Rights Watch. Only Pará guarantees representatives of these centers access to juvenile detention facilities; the Pará state constitution provides for such access to “each and every legally constituted entity connected to the defense of the child and the adolescent.”⁵⁰

⁴³ See U.N. Rules for the Protection of Juveniles Deprived of their Liberty, G.A. Res. 45/133 (1990), art. 72; Standard Minimum Rules for the Treatment of Prisoners, approved by U.N. ECOSOC Res. 663 C (XXIV) (1957) and Res. 2076 (LXII) (1977), art. 55. See also Committee on the Rights of the Child, 25th sess., *State Violence Against Children*, U.N. Doc. CRC/C/97 (September 22, 2000), in Office of the U.N. High Commissioner for Human Rights, *Committee on the Rights of the Child: Reports of General Discussion Days* (Geneva: Office of the U.N. High Commissioner on Human Rights, n.d.), para. 688, recommendation 26, p. 131; Penal Reform International, *Making Standards Work* (The Hague: Penal Reform International, 1995), pp. 161-65.

⁴⁴ “Compete ao Ministério Público: . . . XI – inspecionar as entidades públicas e particulares de atendimento e os programas de que trate esta Lei, adotando de pronto as medidas administrativas ou judiciais necessárias à remoção de irregularidades porventura verificadas . . .” Estatuto da Criança e do Adolescente, art. 201(XI).

⁴⁵ “O representante do Ministério Público, no exercício de suas funções, terá livre acesso a todo local onde se encontre criança ou adolescente.” *Ibid.*, art. 201(3).

⁴⁶ *Ibid.*, arts. 191-93.

⁴⁷ The statute provides, however, that the norms of the Code of Civil Procedure apply to all actions brought under the statute. *Ibid.*, art. 212(1).

⁴⁸ Lei de Execução Penal, art. 66 (VIII).

⁴⁹ See Comissão de Direitos Humanos, *IV Caravana Nacional de Direitos Humanos*.

⁵⁰ “É garantida a toda e qualquer entidade ligada à defesa da criança e do adolescente, legalmente constituída, o livre acesso às instituições ou locais para onde os mesmos forem encaminhados pelos órgãos judiciários, de assistência social, de

The Inter-American Commission on Human Rights, a body of the Organization of American States that promotes and protects human rights in the region, accepts complaints regarding conditions of detention and other human rights abuses. In addition to its adjudicative function, the commission makes occasional visits to countries to obtain firsthand information on alleged abuses. It has conducted one site visit to Brazil, which took place in December 1995. It published its report of that visit, including a chapter on children, in 1997.⁵¹

Finally, as a state party to the major international human rights treaties, Brazil must submit periodic reports to the committees that monitor compliance with those treaties. These committees (known as “treaty bodies”) include the Human Rights Committee, which monitors compliance with the International Covenant on Civil and Political Rights; the Committee against Torture, which performs that function with regard to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment; and the Committee on the Rights of the Child, the treaty body for the Convention on the Rights of the Child. Nongovernmental organizations frequently submit alternative reports to these treaty bodies after the government has submitted its periodic report.⁵² Brazil’s first report to the Committee on the Rights of the Child was due in October 1992 and its second was due in October 1997. It has not yet submitted either. The committee asked Brazil to submit a consolidated report by February 2003, but Brazil did not do so.⁵³

segurança pública, garantindo igualmente o livre acesso a dados, informações, inquéritos e processos a eles relativos.” Constitution of the State of Pará, art. 297.

⁵¹ See Organization of American States, Inter-American Commission on Human Rights, *Informe sobre los derechos humanos en Brasil, 1997*, OEA/Ser.L/V/II.97, Doc.29 rev. 1 (1997).

⁵² See, for example, Justiça Global et al., *Alternative Report on Compliance by the State of Brazil with the Obligations Imposed by the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (Geneva: Justiça Global, 2001), available at www.global.org.br/english/alternative_report.htm, visited August 23, 2001.

⁵³ Electronic mail message from Laura Theytaz-Bergman, CRC/NGO liaison officer, NGO for the Convention on the Rights of the Child, February 26, 2003.



Hamilton A., 17, suffered burns and blisters from tear gas and rubber bullets fired by state military police in the Centro de Internação Espaço Recomeço, Ananideua, Pará, April 2002.
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“They have a type of bomb that explodes. They got me here with something that hits and explodes,” Hamilton A., 17, said of injuries from tear gas and rubber bullets fired by state military police in the Centro de Internação Espaço Recomeço, Ananideua, Pará, April 2002.

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IV. MISTREATMENT BY MILITARY POLICE AND CIVILIAN GUARDS

Once children are transferred to detention centers, they must often endure violence at the hands of state military police, a pattern similar to the one we found when we investigated Brazil's adult prisons.⁵⁴ Less commonly, civilian guards are also responsible for abuses against youths in detention, a possibility that most detention authorities dismissed out of hand. Officials in Manaus, capital of the state of Amazonas, were the only ones to raise the issue of abuses by guards and discuss it forthrightly with Human Rights Watch. "I can't hide this," said Paulo Sampeio, the director of the Amazonas Department of the Child and the Adolescent, "because if I do, I perpetuate it."⁵⁵

The state military police—which, despite their name, are subject to civilian control—ensure the external security of detention centers, quell riots and other disturbances, respond to escape attempts, and routinely conduct cell searches. Children who complained of beatings often told us that military police hit them with *cassetetes*, rubber batons with a metal core.

We were particularly troubled by the actions taken by the military police in response to a disturbance on April 5 and 6, 2002, in the Espaço Recomeço detention center in Pará. One youth with burns, blisters, bruises, and cuts over his face, neck, abdomen, arms, and legs told us that military police aimed tear gas canisters directly at him. We observed other youths with bandages over much of their bodies where they had been injured by rubber bullets. We also heard from youths who reported that police officers beat them with rubber batons and tree branches.

Whether at the hands of military police or civilian guards, such abuses persist in part because of the lack of effective complaint mechanisms and the corresponding lack of accountability for those who commit them. Most detention centers fail to investigate complaints of abuses; indeed, most centers had no meaningful complaint mechanism.

The Role of the State Military Police

In the five states we visited, civilian guards staff juvenile detention centers, and civil police officers (*polícia civil*) staff the police lockups. But youths are not entirely out of police hands once they are transferred to juvenile detention centers. State military police (*polícia militar*)—which, despite their name, are subject to civilian control—have a role in juvenile detention centers. The principal responsibility of the military police is to ensure external security, and at least one officer is stationed outside each detention center at all times. They are commonly called upon to quell riots, respond to escape attempts, and handle other disturbances, and they are responsible for conducting searches in many institutions.

Most youths in detention only have contact with military police during routine searches of living areas and searches of their person when they enter and leave their detention facility. "There are simple searches every day at 7 or 8 a.m.," said Lincoln E., a detainee in the Aninga detention center in the state of Amapá. He told us that there are more complete searches two or three times a month. Speaking of the military police, he said, "They used to get mad at us, but now they don't. They talk with us."⁵⁶

Some youths charged that military police would deliberately damage their personal property during these searches. "When we complained, they would say it was a lie. They left us a little fearful," Patrícia D. said of the military police. "I got mad about their searches. They threw things on the floor, broke things, poured out our shampoo."⁵⁷

⁵⁴ See Human Rights Watch, *Behind Bars in Brazil*, pp. 85-111.

⁵⁵ Human Rights Watch interview with Paulo Sampeio, April 22, 2002.

⁵⁶ Human Rights Watch interview, Macapá, Amapá, April 16, 2002.

⁵⁷ Human Rights Watch interview, Santana, Amapá, April 16, 2002.

Others told us that some military police officers are physically abusive. “They use batons made of rubber,” said Terence M., who spent ten months in the Aninga detention center. “When they came in for searches, they would hit us.”⁵⁸ “The police hit me once, just like this,” said Patrícia D., indicating a strike with an open palm to the back of her neck. “That was the only time they hit me. I saw them hit a lot of other kids when they entered the cells. It was the police who hit us, not the guards.”⁵⁹ “Sometimes they commit abuses. It’s not frequent,” said Lucas G. “It’s just a few. They hit us sometimes with their batons.”⁶⁰

The State Military Police’s Response to the Espaço Recomeço Disturbance

On April 5 and 6, 2002, the weekend before representatives of Human Rights Watch and Cedeca-Emaús arrived at the Espaço Recomeço detention center in Pará, a small group of youths—official estimates ranged from four to nine—set fire to their mattresses and attempted to escape. The disturbance was contained to a wing that held nineteen youths.⁶¹

We visited the center twice during the week of April 8, 2002. During these visits, we were able to inspect the facility, to speak privately with youths who participated in or witnessed the disturbance, and to interview many of the staff.

“It was four boys at the beginning who began to break things and damage the property,” explained the detention center psychologist. He told us that a guard had smuggled the boys a metal bar that they used to knock a hole in the wall.⁶² A youth we interviewed confirmed this account of how the disturbance began. “The rebellion happened on Friday [April 5] at about 6 p.m. Some of the boys set fire to their mattresses,” said Hamilton A., a seventeen-year-old who was housed in Wing C, where the riot took place.⁶³

Detention center officials initially downplayed the events and the official response. “We had a situation here,” Raimundo Monteiro, the center’s warden, told us at first. “It happened on Friday after we had left here. . . . The police arrived, and we had a conversation with the adolescents.”⁶⁴ When we asked him what role the military police had played, he told us, “We spent four or five hours negotiating, then we called in the shock troops.”⁶⁵ After we pressed him for more details, he referred us to other members of his staff, who told us that they attempted to negotiate with the youths involved in the rebellion before asking the military police to quell the disturbance. “A trained negotiator from the military police wasn’t able to end the rebellion,” the psychologist said. “They spent four or five hours in negotiation.”⁶⁶ The youths we spoke with confirmed that there was an extended period of negotiation before the shock troops entered the detention center. “They negotiated for eight hours,” Hamilton A. told us. “Then the shock troops came in.”⁶⁷

“It’s the military police who made the decision to go in,” the psychologist told us. “We felt threatened, and we called the military police. . . . They had to reestablish control of the situation.”⁶⁸ The military police entered the detention center in the early morning of April 6. “The shock troops came in shooting,” said André G., who was

⁵⁸ Human Rights Watch interview, Macapá, Amapá, April 15, 2002.

⁵⁹ Human Rights Watch interview, Santana, Amapá, April 16, 2002.

⁶⁰ Human Rights Watch interview, Macapá, Amapá, April 16, 2002.

⁶¹ Human Rights Watch interviews with Raimundo Monteiro and Maria Luiza Jarolim, psychologist, Centro de Internação Espaço Recomeço, Ananideua, Pará, April 8, 2002; Raimundo Monteiro, April 12, 2002. See also “Adolescentes infratores do EREC se rebelam e fazem refens,” *O Liberal* (Belém), April 6, 2002, p. 9; “Rebelião do EREC dura sete horas e termina com fuga de 4 adolescentes,” *O Liberal* (Belém), April 7, 2002, p. 11.

⁶² Human Rights Watch interview, Centro de Internação Espaço Recomeço, Ananideua, Pará, April 12, 2002.

⁶³ Human Rights Watch interview, Centro Sócio-Educativo Masculino, Ananideua, Pará, April 12, 2002.

⁶⁴ Human Rights Watch interview with Raimundo Monteiro, April 8, 2002.

⁶⁵ Ibid.

⁶⁶ Human Rights Watch interview, April 12, 2002.

⁶⁷ Human Rights Watch interview, Centro Sócio-Educativo Masculino, Ananideua, Pará, April 12, 2002.

⁶⁸ Human Rights Watch interview, April 12, 2002.

held in another wing of the detention center within sight of the disturbance.⁶⁹ “They fired rubber bullets. A few boys got hit in the arm. They were all in C, where the rebellion was,” said Lucas G., who was housed in Wing C.⁷⁰ “The shock troops fired rubber bullets, and some guys were severely injured,” Tobias V. told us.⁷¹

Asked to describe the military police’s treatment during the riot, Júnior A., in the Espaço Recomeço detention center’s annex, replied, “Cruel, cruel.” He showed us scars on his back that he said were the result of beatings by the military police.⁷² Damião P. told us that military police shot at him after they entered the detention center. “I took off,” he said. When we asked him why, he replied, “To not be shot.” He told us that he went over the wall of the detention center, but he was caught the same day and placed in the annex. A military police officer beat him with a tree branch before taking him back to the detention center, he said, showing us long scars on his back. “They beat us. The police beat us,” he said.⁷³ “They used gas, and they shot me,” said Hamilton A. He had burns, blisters, bruises, and cuts over his face, neck, abdomen, arms, and legs. “They have a type of bomb that explodes,” he explained, pointing to his arm. “They got me here with something that hits and explodes.” After he was incapacitated, military police beat him with rubber batons, he told us. He estimated that six or seven other youths were injured by police during and after the riot.⁷⁴

After the rebellion ended, youths told us that military police had them undress and remain nude for the rest of the day. “I was naked the whole day of the rebellion. They didn’t let us dress so we wouldn’t be able to hide if we escaped,” Lucas G. told us. “The next day, they allowed us to wash. My clothes were never found. I’m wearing borrowed clothes. No underwear. It’s the only change of clothes I have.”⁷⁵ Tobias V. corroborated this account, saying, “Those who were in the rebellion had to take off their clothes.”⁷⁶

Detention officials appear to have made no efforts to contact the parents of injured youths. Hamilton’s parents did not learn of his injuries until his father called the center after seeing a television news broadcast that mentioned the riot. “I called there,” his father said, referring to the detention center. “I identified myself as the father. They told me that my son was injured. They said he wasn’t involved in the rebellion. He hid in the bathroom; others burned mattresses. When I went there, it was horrible.” When we asked him to describe Hamilton’s condition, he repeated, “It was horrible. He was burned, limping, his knee was hurt, he was burned everywhere. . . . He’d had no food until Sunday. Friday night and all day Saturday, without eating, just liquids. It was horrible.”⁷⁷

When we asked whether those who were injured received medical treatment, every youth who reported serious injuries told us that he had received medical care, and those who were not involved in the disturbance reported that injured youths received medical attention within the hour after the disturbance ended. Tobias V. told us, “After the shooting, they [detention center officials] attended to the ones who were hurt. About forty or fifty minutes later, they went to the hospital.”⁷⁸

By the Monday morning of our visit, detention center personnel had already cleaned out much of the area. When we returned to the center at the end of the week, Raimundo Monteiro, the warden of the detention center, assured us that the military police had conducted their own investigation and had prepared a report. When we asked him for the military police’s report, he claimed not to have a copy.⁷⁹

⁶⁹ Human Rights Watch interview, Centro de Internação Espaço Recomeço, Ananideua, Pará, April 8, 2002.

⁷⁰ Human Rights Watch interview, Centro de Internação Espaço Recomeço, Ananideua, Pará, April 8, 2002.

⁷¹ Human Rights Watch interview, Centro de Internação Espaço Recomeço, Ananideua, Pará, April 8, 2002.

⁷² Human Rights Watch interview, Centro de Internação Espaço Recomeço annex, Ananideua, Pará, April 8, 2002.

⁷³ Human Rights Watch interview, Centro de Internação Espaço Recomeço annex, Ananideua, Pará, April 8, 2002.

⁷⁴ Human Rights Watch interview, Centro Sócio-Educativo Masculino, Ananideua, Pará, April 12, 2002.

⁷⁵ Human Rights Watch interview, Centro de Internação Espaço Recomeço, Ananideua, Pará, April 8, 2002.

⁷⁶ Human Rights Watch interview, Centro de Internação Espaço Recomeço, Ananideua, Pará, April 8, 2002.

⁷⁷ Human Rights Watch interview, Centro Sócio-Educativo Masculino, Ananideua, Pará, April 12, 2002.

⁷⁸ Human Rights Watch interview, Centro de Internação Espaço Recomeço, Ananideua, Pará, April 8, 2002.

⁷⁹ Human Rights Watch interview with Raimundo Monteiro, April 12, 2002.

“This is the second rebellion in fifty days,” Hamilton’s father told us.⁸⁰ “I saw the last one,” Henrique O. told us. “The police used tear gas. I saw one kid—they had to take him to the hospital.”⁸¹ Flávio M., who was in the detention center during the earlier disturbance, told us, “The shock troop came in with shotguns, hitting the kids. They hit even those who weren’t in the rebellion, just came in hitting.”⁸²

When we asked why the disturbances had occurred, many youths answered that the conditions of their confinement was a factor. In the Espaço Recomeço detention center, “there are many guards who go around beating the adolescents. That was one of the reasons for the rebellion,” Hamilton A. said. He told us about one incident in which guards pulled a youth out of his cell and beat him because he was talking. “They can do anything. They can come in and pull us out of cells and beat us up.”⁸³ Tobias V. had similar complaints: “It was because of the treatment; the food, which isn’t enough; the time for recreation. They changed it; before, we had a whole day of recreation. Now we only have half a day. It was because of things like that.”⁸⁴

Many of the precise circumstances of this disturbance will never be known. What we do know, however, raises troubling questions about the actions of detention center officials and military police in response to a disturbance that involved a small number of youths and was confined to one area of the facility. In particular, we are disturbed by the severity of the injuries caused by the military police.

Detention officials in most states told us that the military police did not enter their facilities unless detention authorities requested it. “They only enter when we ask,” said José Asenção Fonseca, director of the Esperança Youth Center (Centro de Juventude Esperança) in São Luís. “They provide the external security.”⁸⁵ Similarly, an agreement between Amapá’s Foundation of the Child and Adolescent and the state’s military police specifies, “The military police may only intervene in the internal area [of the detention center] when requested by the Unit Coordination Office, in the case of events that put the physical integrity of persons or the preservation of the property at risk.”⁸⁶

The state of Amapá provided a counterpoint to Pará. Detention officials and state military police working in the Aninga detention center in Amapá—which holds approximately the same number of youths as in Pará’s Espaço Recomeço—have implemented security plans intended to identify security risks, provide for coordination between civilian guards and military police during disturbances, and ensure respect for the rights of youths in detention. As a result of these and other initiatives, they told us, they have not had a riot since 1995. Youths we interviewed in that state spoke to us at length about their complaints, but riots, rubber bullets, and tear gas were not among them.

Under international standards, police and detention center officials may resort to force restrictively in order to prevent a youth from inflicting self-injury, injuries to others, or serious destruction of property. The use of force should be limited to exceptional cases, where all other control methods have been exhausted and failed; it should never cause humiliation or degradation.⁸⁷ Detention center officials should always inform family members of

⁸⁰ Human Rights Watch interview, Centro Sócio-Educativo Masculino, Ananideua, Pará, April 12, 2002.

⁸¹ Human Rights Watch interview, Centro Sócio-Educativo Masculino, Ananideua, Pará, April 12, 2002.

⁸² Human Rights Watch interview, Centro Juvenil Masculino, Ananideua, Pará, April 10, 2002.

⁸³ Human Rights Watch interview, Centro Sócio-Educativo Masculino, Ananideua, Pará, April 12, 2002.

⁸⁴ Human Rights Watch interview, Centro de Internação Espaço Recomeço, Ananideua, Pará, April 8, 2002.

⁸⁵ Human Rights Watch interview with José Fonseca, April 19, 2002.

⁸⁶ “Os policiais militares só podem intervir no ambiente interno, quando solicitados pela Coordenação da Unidade, no caso de ocorrências que coloquem em risco a integridade física das pessoas ou a preservação do patrimônio.” Governo do Estado do Amapá, Fundação da Criança e do Adolescente, *Projeto Aninga: sistema de contenção e segurança* (Macapá, Amapá: Fundação da Criança e do Adolescente, 2002), p. 9.

⁸⁷ See U.N. Rules for the Protection of Juveniles, art. 64.

injuries that result from the use of force. In cases where the use of force results in serious injuries or death, a family member or guardian should be notified immediately.⁸⁸

Treatment by Civilian Guards

Verbal abuse by guards appears to be common, based on the number of complaints we heard from youths. “They don’t show respect,” said Romão S., a detainee in Pará.⁸⁹ “Some guards verbally abuse us,” said Tobias V., in the Espaço Recomeço detention center in Pará.⁹⁰ Asked if she would change anything, Iolanda D. replied, “The guards could use a little sensitizing. They can be arrogant. I would change that if I could.”⁹¹ Loide Gomes da Silva Ferreira, a social worker with the Centro de Defesa in Maranhão, said of the frequent verbal abuse, “It’s very prejudicial. They don’t work within a pedagogical framework. They work within a framework of repression.”⁹²

We also heard reports of physical abuse by guards, although these were much less common. Romão S. returned to the topic of treatment by guards later in our interview, saying that when he was in the Espaço Recomeço detention center, “there was a lot of disrespect. . . . Some of the guards are good, but not all. There are some that think it’s a prison [for adults]. They hit people. There was that.”⁹³

With the notable exception of authorities in the state of Amazonas, detention officials themselves tended to dismiss reports of physical violence by guards. “The problems are in the police stations or among the adolescents themselves,” said Raimundo Monteiro, director of the Espaço Recomeço detention center. “We converse with the adolescents and try to resolve things.”⁹⁴

In Amazonas, Paulo Sampeio raised the issue in response to a question about violence by youths. “In the last four years, we haven’t had a single rebellion,” he said. “What we have is violence committed by guards. We’ve established an administrative procedure. . . . The response depends on the case. The guard can be dismissed, suspended, reprimanded. We investigate why the incident occurred.”⁹⁵ The state opened thirty-eight investigations of guards in 2001 and seven in the first four months of 2002.⁹⁶

But we heard conflicting accounts of the progress of one such investigation involving a guard in the Raimundo Parente detention center. “Recently we had a confrontation between an adolescent and a guard,” the center’s director told us. “The minor escaped. When he returned, there was a discussion between them, and the guard hit the adolescent. He was suspended, and he doesn’t work in this unit anymore. The boy is still here.”⁹⁷ Orlando S., the fifteen-year-old youth involved in the incident, told us, “It was a guard who was on duty when I ran away. When I returned, he abused me physically. It was about 9:00 at night, when we were in the bathroom for the last time that night. He hit me. I fell to the floor, and he hit me on the arm. First he hit me on the back of the neck and hit me legs. Then I fell, and he hit me on the arms and chest.” He reported that he spoke with the director and attended a hearing three weeks later. “I went to the hearing. I spoke about what happened. There were other

⁸⁸ Rule 56 of the U.N. Rules for the Protection of Juveniles provides, “The family or guardian of a juvenile or any other person designated by the juvenile has the right to be informed of the state of health of the juvenile on request and in the event of any important changes in the health of the juvenile. The director of the detention facility should notify immediately the family or guardian of the juvenile concerned, or other designated person, in case of death” or serious injury. *Ibid.*, art. 56.

⁸⁹ Human Rights Watch interview, Centro Juvenil Masculino, Ananideua, Pará, April 8, 2002.

⁹⁰ Human Rights Watch interview, Centro de Internação Espaço Recomeço, Ananideua, Pará, April 8, 2002.

⁹¹ Human Rights Watch interview, Centro de Internação de Adolescentes Femenino, Ananideua, Pará, April 11, 2002.

⁹² Human Rights Watch interview with Loide Gomes, April 18, 2002.

⁹³ Human Rights Watch interview, Centro Juvenil Masculino, Ananideua, Pará, April 8, 2002.

⁹⁴ Human Rights Watch interview with Raimundo Monteiro, April 12, 2002.

⁹⁵ Human Rights Watch interview with Paulo Sampeio, April 22, 2002.

⁹⁶ Comissão de Sindicância, Secretaria de Estado do Trabalho e Assistência Social, Governo do Estado do Amazonas, “Relatórios de sindicância realizados no período de 2001 até abril de 2002,” April 23, 2002 (on file with Human Rights Watch).

⁹⁷ Human Rights Watch interview with Mário Nobel Rebelo, director, Centro Sócio-Educativo Senador Raimundo Parente, Manaus, Amazonas, April 23, 2002.

witnesses, two adolescents who were in the bathroom with me. The guard is still here. He's here today; it's his shift right now," he said. When we asked him whether this was the first time he had seen the guard at work since the date of the hearing, he replied, "I saw the guard four days ago. . . . He worked the whole day." Orlando had not heard whether his complaint against the guard had been resolved.⁹⁸

In Amapá, Amazonas, and Maranhão, each of which has undertaken reforms in recent years, some youths suggested that guards hired before the reforms were most likely to engage in abusive behavior. For example, Patrícia D. described the majority of the guards at Aninga as "friends," saying that they treated her and the other girls well. "It was only the older educators that didn't. They didn't have the same contract with the government. They didn't have the same training or courses. . . . Some of those educators don't know how to work with adolescents."⁹⁹ Similarly, speaking of a time when youths were held in police stations rather than in juvenile detention centers, Loide Ferreira commented, "Some are very aggressive, principally those from the era of the lockups. The orders back then were, 'You can hit.'"¹⁰⁰ Sampeio told us, "It doesn't happen with the newer guards; it's usually those who are remnants of the old system. We've had to keep them even though they haven't undergone the training we have for the new ones."¹⁰¹

Complaint Process

When we asked about procedures for making complaints against guards or military police, detention officials universally assured us that they were available to meet with youths who wished to raise concerns. The following account of the "complaint process" in the Esperança Youth Center (Centro de Juventude Esperança) in Maranhão was typical of those we heard: "We have systematic meetings every fifteen days," said José Asenção Fonseca, director of the center. "They [youths in detention] ask us when they want some individualized attention. They'll say, 'I want to speak to the director.'"¹⁰²

International standards call for the establishment of effective complaint mechanisms in each detention center. At a minimum, in addition to providing the opportunity to present complaints to the director and to his or her authorized representative, each detention center should guarantee the following basic aspects of an effective complaint process:

- The right to make a request or complaint, without censorship as to substance, to the central administration, the judicial authority, or other proper authorities.¹⁰³
- The right to be informed of the response to a request or complaint without delay.¹⁰⁴
- The right to regular assistance from family members, legal counselors, humanitarian groups, or others in order to make complaints. In particular, illiterate children should receive the assistance they need to make complaints.¹⁰⁵

In addition, international standards recommend the establishment of an independent office, such as an ombudsman, to receive and investigate complaints made by children deprived of their liberty.¹⁰⁶

⁹⁸ Human Rights Watch interview, Centro Sócio-Educativo Senador Raimundo Parente, Manaus, Amazonas, April 23, 2002.

⁹⁹ Human Rights Watch interview, Santana, Amapá, April 16, 2002.

¹⁰⁰ Human Rights Watch interview with Loide Gomes, April 18, 2002.

¹⁰¹ Human Rights Watch interview with Paulo Sampeio, April 22, 2002.

¹⁰² Human Rights Watch interview with José Asenção Fonseca, director, Centro de Juventude Esperança, April 19, 2002.

¹⁰³ U.N. Rules for the Protection of Juveniles, art. 76.

¹⁰⁴ *Ibid.*

¹⁰⁵ *Ibid.*, art. 78.

¹⁰⁶ *Ibid.*, art. 77.



Punishment cell in the boys' detention center, Porto Velho, Rondônia.
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V. EXCESSIVE USE OF CELL CONFINEMENT

Cell confinement is inhumane. We aren't going to educate or achieve anything with people who are locked up.

—Maria Ribeiro, Foundation of the Child and Adolescent, Amapá

Physical abuse is not the only human rights violation suffered by children in detention. Upon entering a detention facility, children are routinely confined to their cells for five days or more with no opportunity for exercise or other activity. Euphemistically described as a period of “observation,” “orientation,” “evaluation and integration,” or, in one detention center, “therapeutic confinement,” cell confinement is rarely used for any of these purposes.

Cell confinement is also used as the primary formal disciplinary measure. Human Rights Watch found that most detention centers have no clear standards or procedures for the use of cell confinement as a disciplinary measure, and there appear to be no limits on the length of time that children may be confined to their cells.¹⁰⁷ In the Espaço Recomeço detention center in Pará, for example, we spoke to youths who had been held in cell confinement for more than two months. In the state of Amazonas, children reported that they had been placed in cell restriction for up to fifteen days. In contrast, detention facilities in the state of Amapá now limit disciplinary cell confinement to forty-eight hours.

The distinction between confinement for “observation” and disciplinary confinement is often blurry, and youths and guards alike commonly used the same word, *contenção*, to describe both forms of cell confinement. Where children are housed during periods of cell confinement varies from center to center, with some placing children in punishment cells and others restricting children to their normal living quarters. Some children reported that they were completely isolated from other youths during this time. Others told us that they were confined in cells with other children. While in cell confinement, the activities that youths are permitted to take part in—and consequently the length of time they are physically out of their cells each day—varies widely.

Cell restriction can have a significant adverse effect on a youth’s emotional well-being, particularly when he or she is confined for lengthy periods of time. “For me, the worst thing was being in isolation,” Patrícia D. told us. “I was very sad. I stayed there a long time, more than a month inside there without leaving or anything. . . . For me, that was the worst.”¹⁰⁸

Whether used as a punishment or as an introduction to detention, prolonged cell restriction runs counter to international standards, which emphasize children’s need for “sensory stimuli [and] opportunities for association with peers.”¹⁰⁹ As Patrícia D.’s case illustrates, cell restriction can inflict mental suffering on children. In some circumstances, particularly when children are confined in close quarters for extended periods of time, cell restriction may constitute cruel, inhuman, or degrading treatment, in violation of international law.

Cell Confinement for “Observation”

Every facility we visited placed youths in cell confinement upon entry into a detention center. In the Espaço Recomeço detention center, for example, youths undergo five days of “orientation” upon their arrival for “evaluation and integration,” according to Raimundo Monteiro, the center’s director.¹¹⁰ Other directors described this type of cell confinement as a period of “observation” or, in one center, “therapeutic confinement.” Despite the distinctions in terms that directors drew between disciplinary cell confinement and cell confinement for

¹⁰⁷ For adult prisoners, Brazilian law provides that disciplinary isolation may last no more than thirty days. See Lei de Execução Penal, art. 53.

¹⁰⁸ Human Rights Watch interview, Santana, Amapá, April 16, 2002.

¹⁰⁹ U.N. Rules for the Protection of Juveniles, art. 32.

¹¹⁰ Human Rights Watch interview with Raimundo Monteiro, April 8, 2002.

incoming youths, detainees and guards commonly used the same word, *contenção*, to describe both forms of confinement.

Staff in the Espaço Recomeço detention center initially told us that children were confined to their cells for no more than five days. “The period of observation is five days. It’s a question of security. The maximum is five days,” they said.¹¹¹ Nevertheless, children consistently told us that it was used for much longer periods, especially for youths who had escaped and returned to the detention centers after being caught. “I went into cell confinement. I stayed there more than a week when I arrived,” said Henrique O. “That was for observation. It’s one week if you’re new and one month if you’ve escaped. I was in the annex that’s part of CIAM [the boys’ pretrial detention center]. It was just me in the cell.”¹¹² Tobias V., seventeen, told us, “When I came here, I spent five days in cell confinement. That’s not including the weekend.”¹¹³ Lucas G. said, “I stayed in confinement for eight days [on arrival]. It’s a rule here.”¹¹⁴

Espaço Recomeço detention center staff eventually conceded that periods of observation “can last more than five days. If the adolescent is a risk to himself or to other adolescents, it can continue.” When pressed, they told us that they confined many youths to their cells for up to fifteen days at the beginning of their time in detention and for periods between fifteen and thirty days if they had made an escape attempt.¹¹⁵

During this time, youths in the Espaço Recomeço are subject to the same restrictions as youths confined for disciplinary reasons. “You spend five days locked in a cell,” Henrique O. said.¹¹⁶ “You can’t leave for recreation,” said Tobias V.¹¹⁷

Youths are confined to cells in the general housing areas; that is, they are not held in a separate area and then moved to their regular cells once the period of cell confinement is over. “It’s in the same cell, only that you can’t leave,” Lucas G. said.¹¹⁸

Youths in pretrial detention and in the girls’ detention center in Pará generally reported that they were confined for shorter periods of time than youths we heard from in the Espaço Recomeço detention center. In the boys’ pretrial detention center, “observation is five days,” said Henrique O. “You spent five days locked up, with the door bolted. The cells in CIAM [the boys’ pretrial detention center] are small.”¹¹⁹ Graça Q., a seventeen-year-old in the girls’ detention center, told us, “I went into cell confinement on the first day. I spent three days in confinement.”¹²⁰

But Iolanda D., also in the girls’ detention center in Pará, told Human Rights Watch, “The first day I arrived, they searched me and then put me in confinement. I spent eighteen days there, in confinement, just me. I couldn’t do anything. I couldn’t leave. No classes, just to see the doctor. Classes were only afterwards, not during cell confinement.” Asked why she was placed on cell confinement, she replied, “It’s because all of the adolescents go into cell confinement after they arrive.”¹²¹

In Amapá, Lincoln E., told us that when he entered the Aninga detention center in February 2001, “The first day I stayed in a cell. I spent five days in the cell.” Unlike youths in Pará’s detention centers, he was able to leave his

¹¹¹ Human Rights Watch interview, Centro de Internação Espaço Recomeço, Ananideua, Pará, April 12, 2002.

¹¹² Human Rights Watch interview, Centro Sócio-Educativo, Ananideua, Pará, April 12, 2002.

¹¹³ Human Rights Watch interview, Centro de Internação Espaço Recomeço, Ananideua, Pará, April 8, 2002.

¹¹⁴ Human Rights Watch interview, Centro de Internação Espaço Recomeço, Ananideua, Pará, April 8, 2002.

¹¹⁵ Human Rights Watch interview with Centro de Internação Espaço Recomeço staff, Ananideua, Pará, April 12, 2002.

¹¹⁶ Human Rights Watch interview, Centro de Internação Espaço Recomeço, Ananideua, Pará, April 8, 2002.

¹¹⁷ Human Rights Watch interview, Centro de Internação Espaço Recomeço, Ananideua, Pará, April 8, 2002.

¹¹⁸ Human Rights Watch interview, Centro de Internação Espaço Recomeço, Ananideua, Pará, April 8, 2002.

¹¹⁹ Human Rights Watch interview, Centro Sócio-Educativo Masculino, Ananideua, Pará, April 12, 2002.

¹²⁰ Human Rights Watch interview, Centro de Internação de Adolescentes Femenino, Ananideua, Pará, April 11, 2002.

¹²¹ Human Rights Watch interview, Centro de Internação de Adolescentes Femenino, Ananideua, Pará, April 11, 2002.

cell during this period for classes and other activities.¹²² However, we heard from Patrícia D., detained in Aninga from August 2000 to May 2001, that when she was placed in cell confinement at the beginning of her stay at the facility, “There weren’t even classes. They locked me up. It was a week maybe. They left me there.”¹²³

Detention officials in Maranhão told us that youths are kept apart from the rest of the detainee population for fifteen days upon entering the facility. “We have therapeutic confinement,” said José Asenção Fonseca, director of the Esperança Youth Center in São Luís. “The adolescent doesn’t stay in isolation. While he’s evaluated, he participates in activities. He remains alone, but he isn’t kept isolated.”¹²⁴ “Therapeutic confinement provides a gradual introduction to the center,” Dione Pereira explained. “We don’t have isolation. We don’t use physical force. We don’t take away recreation or leisure activities.”¹²⁵ Because of the timing of our visit, we were not able to interview youths in the Esperança Youth Center to corroborate these official accounts.

In Amazonas, Hefranio Maia, the deputy director of the Dagmar Feitoza detention center in Manaus, told us that youths spend a period of observation in Unit Zero. “The period of time is fifteen days It depends on the their situation. Sometimes they can spend a little longer there,” he said.¹²⁶ Paulo R., a nineteen-year-old who had spent nearly three years in the center at the time of our interview, told us that he spent a week in Unit Zero when he arrived. “We went out for activities, and we studied,” he said. He reported that an instructor met with him that week to determine his grade level.¹²⁷

It is unclear that detention centers actually use the initial period of cell confinement for the stated purpose of observation and evaluation. When we asked Tobias V. why he was confined to his cell for five days upon entry, he replied, “I don’t know. Because the director ordered it.”¹²⁸ In a comment typical of those we heard from youths, Henrique O. told us that in the pretrial detention center in Pará, “There’s observation for five days, but the staff doesn’t see you during the five days. Afterward they come to talk to you.”¹²⁹

The federal Chamber of Deputies’ Commission on Human Rights has sharply criticized the practice of confining youths to their cells upon entry into a detention center. After inspecting the girls’ detention center in Pará, it concluded that the practice of placing girls in cell confinement upon arrival amounted to the infliction of “a new sentence, this time extrajudicial, that increases the severity of that already imposed by the judicial authority.” The commission’s report noted:

According to the director of the unit, the measure of cell confinement has as its object the “evaluation” of the arriving youth’s profile. The measure, nonetheless, appears to us absolutely counterproductive and unnecessary, as well as illegal. A good psychologist can in a rigorous interview uncover completely the profile of the detainee, offering the technical staff and the directorate all the recommendations and care necessary for an individualized application of a measure of a socio-educative nature. Forced, arbitrary isolation can cause reactions of contrariness and aggression or, on the other hand, induce depression.¹³⁰

¹²² Human Rights Watch interview, Macapá, Amapá, April 16, 2002.

¹²³ Human Rights Watch interview, Santana, Amapá, April 16, 2002.

¹²⁴ Human Rights Watch interview with José Fonseca, April 19, 2002.

¹²⁵ Human Rights Watch interview with Dione Pereira, April 19, 2002.

¹²⁶ Human Rights Watch interview with Hefranio Maia, subdirector, Centro Sócio-Educativo Assistente Social Dagmar Feitoza, Manaus, Amazonas, April 22, 2002.

¹²⁷ Human Rights Watch interview, Centro Sócio-Educativo Assistente Social Dagmar Feitoza, Manaus, Amazonas, April 22, 2002.

¹²⁸ Human Rights Watch interview, Centro de Internação Espaço Recomeço, Ananideua, Pará, April 8, 2002.

¹²⁹ Human Rights Watch interview, Centro Sócio-Educativo Masculino, Ananideua, Pará, April 12, 2002.

¹³⁰ “Chama a atenção que se aplique, também aqui, a medida de isolamento em cela de contenção – pelo prazo limite de 15 dias – quando da entrada na casa. Trata-se de uma nova sentença, desta vez extrajudicial, que agrava aquela já proferida pela autoridade judiciária. Segundo o diretor da unidade, a medida de contenção tem por objetivo ‘avaliar’ o perfil da novata. A medida, não obstante, nos parece absolutamente contraproducente e desnecessária, além de ilegal. Um bom profissional de

Cell Confinement as a Disciplinary Measure

Cell confinement is also used as the primary formal disciplinary measure in most of the facilities we visited. The Centro Sócio-Educativo Masculino (CESEM) in Pará and Amapá's semiliberty facility were the only centers that did not rely on lengthy periods of cell confinement as a disciplinary measure. In other detention centers, children told us that they were placed on disciplinary cell confinement for periods ranging from twenty-four hours to three months; fifteen days was the most common length of time we heard. Conditions of confinement during these periods were particularly harsh in the Espaço Recomeço detention center, the boys' pretrial detention center, and the girls' detention center in Pará, the Marise Mendes detention center for girls in Amazonas, and the boys' detention center in Rondônia. In all of these cells, youths were placed in squalid, dimly lit punishment cells.

"The punishment here is cell confinement," said Tobias V., a seventeen-year-old in the Espaço Recomeço detention center in Pará. "If you fight with another adolescent or you get involved in a conflict, you get confinement for fifteen days. If it's serious, you get a month."¹³¹ Henrique O. was on cell confinement three times while he was in the Espaço Recomeço detention center. "The first time was for one week, and the rest were for fifteen days. Each of the three times, I stayed in the annex."¹³² We spoke to other youths in the detention center who had been confined to their cells for more than two months.¹³³

Pará's pretrial detention center for boys, the Centro de Internação de Adolescentes Masculino (CIAM), and its girls' detention center, the Centro de Internação de Adolescentes Feminino (CIAF), also used cell confinement as their primary form of discipline. Graça Q., in the girls' detention center, told us, "I spent fifteen days in confinement. It's a rule that you can't fight or threaten [others]. They thought I was fighting."¹³⁴ Henrique O. said, "if you commit an infraction, you get three days of confinement."¹³⁵ "They told me not to fight, not to smoke, all the things you can't do, or you get detention—confinement," said Edison L., a fifteen-year-old in the boys' pretrial detention center. "You get three days of confinement usually."¹³⁶

In Maranhão, officials with the state Foundation of the Child and the Adolescent (Fundação da Criança e do Adolescente) stated that cell confinement was used as a disciplinary measure for up to two days. "They receive medical and psychological attention and schooling," said José Asenção Fonseca, director of the Esperança Youth Center in São Luís. When we asked him how long they remain in their cells, he replied, "They receive a minimum of two hours outside of their cells each day." He told us that youths on cell confinement receive visits that are of the same length as those given to other detainees.¹³⁷

When we asked Maria Ribeiro, the Amapá official who described cell confinement as "inhumane," why it was so widely used, she replied, "Everybody is used to this system of cell confinement."¹³⁸ She told us, "Last year, we decided to end its use. We had an extremely difficult period afterward, a period of chaos for three months or so. We had to rethink the situation a little and return to observation. The adolescent remains in his own room. He has the right to school, to study. He leaves his room for school but doesn't do other activities. Vocational

psicologia pode em uma entrevista rigorosa desvendar completamente o 'perfil' da interna, oferecendo aos técnicos e à direção todas as recomendações e cuidados necessários para a aplicação individualizada de medida de natureza socioeducativa. O isolamento forçado e arbitrário pode estimular reações de contrariedade e agressividade ou, por outro lado, induzir a quadros depressivos." Comissão de Direitos Humanos, *IV Caravana Nacional de Direitos Humanos*, pp. 36-37.

¹³¹ Human Rights Watch interview, Centro de Internação Espaço Recomeço, Ananideua, Pará, April 8, 2002.

¹³² Human Rights Watch interview, Centro Sócio-Educativo Masculino, Ananideua, Pará, April 12, 2002.

¹³³ Human Rights Watch interviews, Centro de Internação Espaço Recomeço, Ananideua, Pará, April 8, 2002.

¹³⁴ Human Rights Watch interview, Centro de Internação de Adolescentes Feminino, Ananideua, Pará, April 11, 2002.

¹³⁵ Human Rights Watch interview, Centro Sócio-Educativo Masculino, Ananideua, Pará, April 12, 2002.

¹³⁶ Human Rights Watch interview, Centro de Internação de Adolescentes Masculino, April 9, 2002.

¹³⁷ Human Rights Watch interview with José Fonseca, April 19, 2002.

¹³⁸ Human Rights Watch interview with Maria Ribeiro, April 16, 2002.

training, yes, we also guarantee that. The period of observation is twenty-four hours, or at the maximum forty-eight hours.”¹³⁹

Most youths held in the Aninga detention center in Amapá described twenty-four or forty-eight-hour periods of cell confinement that matched official accounts. Terence M., who spent ten months in Aninga in 2001, told us, “They had ‘observation’ for twenty-four or forty-eight hours. Twenty-four hours was for when you didn’t go to school, a light offense. Forty-eight hours was for something serious, like fighting,” he said. “I was in ‘observation’ a few times, only once for forty-eight hours, the rest of the times for twenty-four.”¹⁴⁰ “You go to observation if you don’t go to class,” said Lucas G., in Aninga since October 2001.¹⁴¹ Lincoln D., who had been in Aninga for over a year at the time of our interview, also told us that fights were punished by cell confinement of twenty-four or forty-eight hours, depending on the seriousness of the offense.¹⁴²

But Josefina S., a seventeen-year-old who had been in Aninga for nine months at the time of our interview, said that she was told that she would be placed on cell confinement for a much longer period of time if she misbehaved. “You stay in ‘observation’ for ten days if it’s a serious offense. If it’s not serious, it’s just two days.”¹⁴³ Patrícia D. told us that she spent two periods on cell confinement, the first time from September to November 2000 and again for a shorter time in January 2001. “It was three months that I spent in confinement,” she said. “It was because I was very rebellious. I fought a lot. That was my punishment—they left me in confinement.”¹⁴⁴

Some detention centers place children in punishment cells, where they are subjected to particularly difficult conditions. In the Espaço Recomeço detention center, youths are held either in a punishment cell located immediately left of the infirmary in the administration block or in the annex, which is a cell block that is part of the boys’ pretrial detention complex next door. In the boys’ pretrial detention center in Pará, most youths who had been placed on cell confinement reported that they were moved to the oldest wing of the facility. Youths in the Dagmar Feitoza detention center in Amazonas reported that those who committed disciplinary infractions are moved to a wing known as Unit Zero, which is also used for incoming detainees.¹⁴⁵ Girls in Amazonas’ Marise Mendes detention center served periods of disciplinary cell confinement in small, dark, and airless punishment cells.¹⁴⁶ And in the boys’ detention center in the state of Rondônia, our researcher spoke to seven youths who were crowded into a small, filthy punishment cell.¹⁴⁷

The Espaço Recomeço detention center’s punishment cell held four youths on the day we visited the center. When we spoke to them through the bars before our interview with the warden, they told us that they were restricted to the cell. When we later asked the warden about this cell, he told us, “They’re not confined.”¹⁴⁸ Behind him, the youths shook their heads to indicate that they disagreed with what he was saying. When we interviewed him later, Jaime R. told us that he and the other youths were in confinement as punishment for being involved in fights. He had been in the cell for one month. During that time, the cell had held up to six youths. The cell had two bunk beds without mattresses and a hammock. “When there are six here, two have to share a bed,” he told us.¹⁴⁹ Flávio M., age seventeen, told us that he spent one week in this cell while he was in the

¹³⁹ Human Rights Watch interview with Maria Ribeiro, April 15, 2002.

¹⁴⁰ Human Rights Watch interview, Macapá, Amapá, April 15, 2002.

¹⁴¹ Human Rights Watch interview, Macapá, Amapá, April 16, 2002.

¹⁴² Human Rights Watch interview, Macapá, Amapá, April 16, 2002.

¹⁴³ Human Rights Watch interview, Santana, Amapá, April 16, 2002.

¹⁴⁴ Human Rights Watch interview, Santana, Amapá, April 16, 2002.

¹⁴⁵ Human Rights Watch interview, Centro Sócio-Educativo Assistente Social Dagmar Feitoza, Manaus, Amazonas, April 22, 2002.

¹⁴⁶ Human Rights Watch interviews, Centro Sócio-Educativo Marise Mendes, Manaus, Amazonas, April 22, 2002.

¹⁴⁷ Human Rights Watch interviews, Casa do Adolescente, Porto Velho, Rondônia, April 24, 2002.

¹⁴⁸ Human Rights Watch interview with Raimundo Monteiro, April 8, 2002.

¹⁴⁹ Human Rights Watch interview, Centro de Internação Espaço Recomeço, Ananideua, Pará, April 8, 2002.

Espaço Recomeço. “It was a cell near the administration. There were three of us in the cell,” he said. “I spent one week in the cell without leaving.”¹⁵⁰

There were nine youths in the Espaço Recomeço detention center annex on the day that we visited. Most were housed two to a cell; some had cells to themselves. Gilson R., age sixteen, had been held in the annex for approximately forty-five days when we spoke with him at the beginning of April 2002. He was sent to the annex after an unsuccessful escape attempt during a rebellion in February. “We can only leave the cell for fifteen minutes of sun every day,” he told us; during those fifteen minutes, he is able to walk up and down the open-air corridor but cannot leave the cellblock.¹⁵¹ “You spend all your time locked up,” said Henrique O. “They don’t let you out for sun.”¹⁵²

Romão S., who spent two and a half months in the Espaço Recomeço detention center annex in 2001, described it as having “the worst conditions there are.” He told us that the only time he had out of his cell was fifteen or twenty minutes each morning. “It varied, depending on the guard, how much time we were out of the cell.” He told us that he did not leave the annex during his time on cell restriction.¹⁵³ Youths in cell confinement in the Espaço Recomeço are able to receive family visits, but often for a shorter time than other detainees. “The visits aren’t suspended, but the normal visits are two hours and for those in confinement they’re thirty minutes,” said Tobias V.¹⁵⁴ Youths in the annex receive visits in the corridor outside their cell. Gilson R. told us that he is able to receive visits in the annex every Sunday, but he is not allowed to leave his cell during that time.¹⁵⁵

Youths held in the boys’ pretrial detention center in Pará reported that they are usually held in the oldest wing of the facility while on cell confinement. “I spent three days in confinement in the old wing, the old building,” said Flávio M.¹⁵⁶ Occasionally, they are held in the annex, the cell block that was used for detainees from the Espaço Recomeço detention center at the time of our visit. Fourteen-year-old Edgar B. told us, “I spent an entire night there. I took a piece of newspaper, and a monitor saw me. He put me in confinement, in the cells where the people from EREC [the Espaço Recomeço detention center] are. Those are the older kids, the big ones, like seventeen, big.”¹⁵⁷

Before the Esperança Youth Center moved to a new facility, children were held in cell confinement in a punishment cell that was located in an outbuilding far from the main housing block, according to the nongovernmental Marcos Passerini Center for the Defense of Children and Adolescents. “It certainly existed,” said Francisco Lemos, a staff attorney with the group. “We didn’t succeed in getting official information about it, but the children told us that it was so.” Children typically reported being placed in the cell for five days at a time, he said.¹⁵⁸

At least some youths were not allowed to attend classes during the time they were confined to their cells. “You can’t do anything,” said Inês F., a fourteen-year-old in the girls’ detention center. “There aren’t any activities. They bring you your meals.” She told us that she was not able to attend classes during the fifteen days she spent in confinement.¹⁵⁹ But Edison L., held in the boys’ pretrial detention center, told us, “No recreation, but you do get to study.”¹⁶⁰ And in the Dagmar Feitoza detention center in Amazonas, Paulo R. told us that youths who received disciplinary cell confinement were able to attend classes and have visits, although they could not

¹⁵⁰ Human Rights Watch interview, Centro Juvenil Masculino, Ananideua, Pará, April 8, 2002.

¹⁵¹ Human Rights Watch interview, Centro de Internação Espaço Recomeço annex, Ananideua, Pará, April 8, 2002.

¹⁵² Human Rights Watch interview, Centro Sócio-Educativo Masculino, Ananideua, Pará, April 12, 2002.

¹⁵³ Human Rights Watch interview, Centro Juvenil Masculino, Ananideua, Pará, April 8, 2002.

¹⁵⁴ Human Rights Watch interview, Centro de Internação Espaço Recomeço, Ananideua, Pará, April 8, 2002.

¹⁵⁵ Human Rights Watch interview, Centro de Internação Espaço Recomeço annex

¹⁵⁶ Human Rights Watch interview, Centro Juvenil Masculino, Ananideua, Pará, April 8, 2002.

¹⁵⁷ Human Rights Watch interview, Centro de Internação de Adolescentes Masculino, Ananideua, Pará, April 9, 2002.

¹⁵⁸ Human Rights Watch interview with Francisco Lemos, April 18, 2002.

¹⁵⁹ Human Rights Watch interview, Centro de Internação de Adolescentes Feminino, Ananideua, Pará, April 11, 2002.

¹⁶⁰ Human Rights Watch interview, Centro de Internação de Adolescentes Masculino, April 9, 2002.

participate in other activities.¹⁶¹ Similarly, Gilberto S. told us that “you can’t leave for sports, just for education.”¹⁶²

None of the detention centers that used confinement as a disciplinary measure could provide us with a list of infractions and the sanctions for them. Officials at every center told us that they gave youths a verbal summary of the rules, and most children were able to recite two or three basic rules against fighting, damaging the property, and the like. In a typical description of an institution’s rules as the youths understand them, Lucas G. told us, “I didn’t get anything written. There was a presentation. They told me I could have visits, don’t fight, don’t get involved in conflicts.”¹⁶³

We were particularly troubled by the length of time youths may be held in cell confinement in the Espaço Recomeço detention center and the apparent absence of any limitations on this status. “There is no specific period of time in isolation,” Raimundo Monteiro, the director of the center, told us.¹⁶⁴

We were also troubled to learn that at the Espaço Recomeço detention center and elsewhere, decisions to place a youth in cell confinement are subject to no meaningful review and offer youths little or no opportunity to be heard in their own defense. “The initial decision to place a youth in confinement is taken by the monitor, who calls the professional staff to advise him or her of the situation, along with the management. The decision is made by the director and the professional team,” Monteiro told us. When we asked him who reviewed such decisions, he replied, “The same ones who decide; it’s the same group who reviews.”¹⁶⁵ Although Monteiro claimed that he and the professional team “generally . . . call the adolescent” during their review of cases of youths placed on cell confinement,¹⁶⁶ we found no evidence that they afforded youths an opportunity to be heard at any point. For example, when we asked Tobias V. if there was a hearing or the opportunity to appeal, he replied, “No. Only for good behavior can you get out before [the fifteen-day period].”¹⁶⁷ Similarly, Gilson R. told us that he did not have a hearing before being placed in confinement. “They didn’t call me to talk to me,” he said.¹⁶⁸

This failure to afford youths a hearing in the disciplinary process was not unique to the Espaço Recomeço detention center. Graça Q. told us that there was no appeal from a decision to place a youth on cell confinement in the girls’ detention center in Pará.¹⁶⁹ We heard similar accounts from youths in nearly every detention center we visited.

The only centers that did not rely on lengthy periods of cell confinement as disciplinary measures were the Centro Sócio-Educativo Masculino (CESEM), the least restrictive of the detention facilities in Pará, and the semiliberty facility we visited in Amapá. The director of CESEM told us that youths are only restricted to their rooms for one or two hours. CESEM’s staff tell detainees that they can be returned to the Espaço Recomeço detention center if they misbehave. “We talk with them. If that doesn’t work, they know they could be sent back,” she said. When we asked her whether the detention center actually transferred youths for disciplinary reasons, she replied, “In an extreme case, yes.” She said that two youths had been returned in the year prior to our visit.¹⁷⁰ In the semiliberty facility in Amapá, youths and staff told us that youths may lose activities if they commit disciplinary infractions. “They take away activities, if it [the infraction] is very serious. They give a warning usually,” said Gustavo B., a

¹⁶¹ Human Rights Watch interview, Centro Sócio-Educativo Assistente Social Dagmar Feitoza, Manaus, Amazonas, April 22, 2002.

¹⁶² Human Rights Watch interview, Centro Sócio-Educativo Assistente Social Dagmar Feitoza, Manaus, Amazonas, April 22, 2002.

¹⁶³ Human Rights Watch interview, Centro de Internação Espaço Recomeço, Ananideua, Pará, April 8, 2002.

¹⁶⁴ Human Rights Watch interview with Raimundo Monteiro, April 8, 2002.

¹⁶⁵ Ibid.

¹⁶⁶ Ibid.

¹⁶⁷ Human Rights Watch interview, Centro de Internação Espaço Recomeço, Ananideua, Pará, April 8, 2002.

¹⁶⁸ Human Rights Watch interview, Centro de Internação Espaço Recomeço annex, Ananideua, Pará, April 8, 2002.

¹⁶⁹ Human Rights Watch interview, Centro de Internação de Adolescentes Femenino, Ananideua, Pará, April 11, 2002.

¹⁷⁰ Human Rights Watch interview with Angela Pompeu, April 12, 2002.

sixteen-year-old.¹⁷¹ The facility allows many of its detainees to spend weekends with family members, telling youths that they will lose these privileges if they misbehave. “It’s better to follow the rules than to have to sleep in the cells” on weekends, Jacó G. told us.¹⁷²

Legal Standards

Contact with peers, family members, and the wider community counteracts the detrimental effects of detention on a child’s mental and emotional health and promotes his or her eventual reintegration into society.¹⁷³ Accordingly, international standards call for the placement of children in the least restrictive setting possible, with priority given to “open” facilities over “closed” facilities.¹⁷⁴ Every facility, whether open or closed, should give due regard to children’s need for “sensory stimuli, opportunities for association with peers and participation in sports, physical exercise and leisure-time activities.”¹⁷⁵ In this regard, the U.N. Rules call for detention centers to provide children with “adequate communication with the outside world”;¹⁷⁶ permit daily exercise, preferably in the open air;¹⁷⁷ and integrate their education, work opportunities, and medical care as far as possible into the local community.¹⁷⁸ Consistent with this fundamental approach, international standards forbid the use of closed confinement, placement in a dark cell, “or any other punishment that may compromise the physical or mental health of the juvenile concerned.”¹⁷⁹

In addition, disciplinary sanctions should be imposed in strict accordance with established norms, which should identify conduct constituting an offense, delineate the type and duration of sanctions, and provide for appeals.¹⁸⁰ Youths should have the opportunity to be heard in their own defense before disciplinary sanctions are imposed and on appeal.¹⁸¹

When these standards are not met, particularly when children are confined in close quarters for extended periods of time, cell restriction may constitute cruel, inhuman, or degrading treatment, in violation of the Convention on the Rights of the Child, the International Covenant on Civil and Political Rights, and the Convention against Torture.¹⁸²

¹⁷¹ Human Rights Watch interview, Macapá, Amapá, April 15, 2002.

¹⁷² Human Rights Watch interview, Macapá, Amapá, April 15, 2002.

¹⁷³ See U.N. Rules for the Protection of Juveniles, arts. 1-3.

¹⁷⁴ See U.N. Standard Minimum Rules for the Administration of Juvenile Justice (“Beijing Rules”), G.A. Res. 40/33 (1985), comment to art. 19.

¹⁷⁵ U.N. Rules for the Protection of Juveniles, art. 32.

¹⁷⁶ *Ibid.*, art. 59.

¹⁷⁷ *Ibid.*, art. 47.

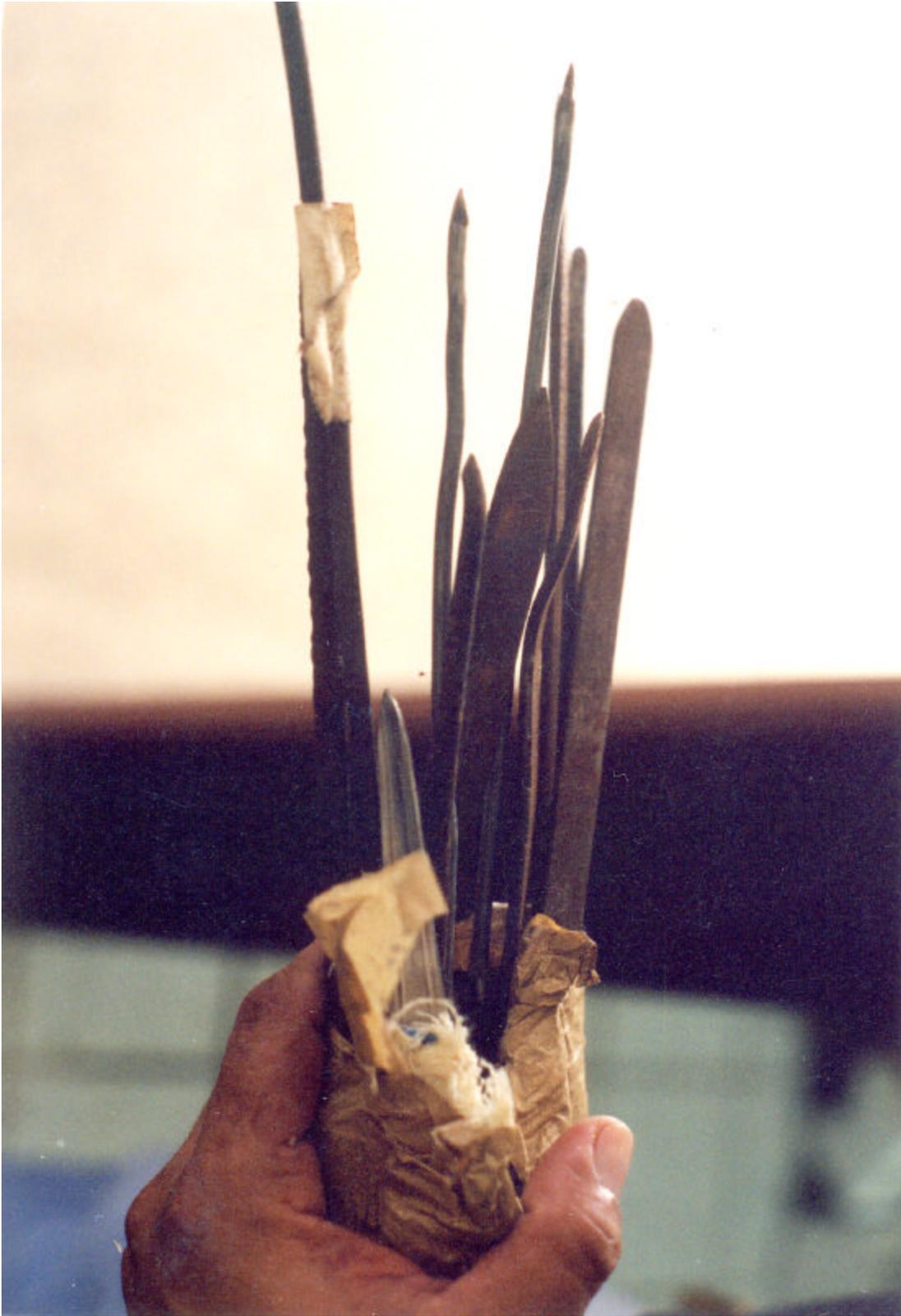
¹⁷⁸ *Ibid.*, arts. 38, 45, and 49.

¹⁷⁹ *Ibid.*, art. 67.

¹⁸⁰ See *ibid.*, art. 68.

¹⁸¹ See *ibid.*, art. 70. See also Convention on the Rights of the Child, art. 12(2).

¹⁸² See Convention on the Rights of the Child, art. 37(a); International Covenant on Civil and Political Rights (ICCPR), *opened for signature* December 19, 1966, 999 U.N.T.S. 171 (entered into force March 23, 1976, and acceded to by Brazil January 24, 1992), art. 7; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *adopted* December 10, 1984, 1465 U.N.T.S. 85 (entered into force June 26, 1987, and ratified by Brazil September 28, 1989), art. 16.



Weapons made by youths and confiscated in the Centro Esperança, São Luís, Maranhão.

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VI. VIOLENCE AMONG YOUTHS

We did not hear many accounts of violence among youths, but some youths reported very serious acts of violence committed by other youths in detention. In one facility, a girl bore scars on her face, neck, and arms that she attributed to a fight with another girl. Elsewhere, a social worker with the local children's defense center told us that youths reported suffering sexual assaults and other acts of violence at the hands of other youths. Such reports starkly illustrate the need to separate youths by age, physical maturity, severity of offense, and other factors—a requirement of Brazilian law that many detention centers observe only in part.

Many children we interviewed became markedly less forthcoming when we asked about violence among youths, quickly responding that they had no problems with other youths. Others told us that the incidents they had seen were not serious. Asked if there were fights in Aninga, Lucas G. said, "Not violent ones."¹⁸³

Youths were more likely to discuss incidents that had taken place at other detention centers. The Espaço Recomeço detention center "was horrible," said Henrique O., who spent two months in that facility before he came to the Centro Sócio-Educativo Masculino (CESEM). "Here there's a very big space. Here it's very different. You spend all your time locked up there [in the Espaço Recomeço detention center], one person hitting another. There are lots of fights there."¹⁸⁴ Josefina S., temporarily housed in Amapá's pretrial detention center while the Aninga detention center was undergoing repairs, told us, "Aninga is a little heavier. The prisoners go around hitting each other. Here it's calmer. There they go around making trouble, rebellion."¹⁸⁵

When our researcher asked Josefina S. about several cuts on her arms, neck, and face, she told him that another girl had injured her in a fight the previous week. "That's why I came here. She did it because she was, I think she was drinking alcohol, smoking. She cut me, she wanted to kill me. She was put on confinement," she said. "Sometimes that happens."¹⁸⁶ We were able to verify that another girl had been placed on disciplinary cell confinement the previous week, but the officials we spoke with did not know the reasons for that punishment.

Loide Gomes, a social worker with the nongovernmental Marcos Passerini Center for the Defense of Children and Adolescents in São Luís, Maranhão, told us that older youths subject newcomers to violence as a form of initiation. "There's a culture of 'reception'—on arrival, there's a little beating," she said. "There's an internal code of discipline administered by the older detainees."¹⁸⁷

Gomes also reported that she had heard of cases of sexual assault by youths against other youths. "There have been cases of sexual violence, the strongest on the weakest," she said. In addition, she told us that the most vulnerable detainees are made to undertake tasks that are considered to be women's work. "Often the weakest are made to wash clothes for the strongest. For example, somebody with mental impairments might be forced to take on this task and also be subjected to sexual violence."¹⁸⁸ Nevertheless, Maranhão detention officials told us that there were no cases of sexual violence among youths. "We've not had a case of one against another, not in this detention center," said José Asenção Fonseca, director of the Esperança Youth Center.¹⁸⁹

¹⁸³ Human Rights Watch interview, Macapá, Amapá, April 16, 2002.

¹⁸⁴ Human Rights Watch interview, Centro Sócio-Educativo Masculino, Ananideua, Pará, April 12, 2002.

¹⁸⁵ Human Rights Watch interview, Santana, Amapá, April 16, 2002.

¹⁸⁶ Human Rights Watch interview, Santana, Amapá, April 16, 2002.

¹⁸⁷ Human Rights Watch interview with Loide Gomes, April 18, 2002.

¹⁸⁸ *Ibid.* Similarly, Human Rights Watch has found that victims of sexual assault in U.S. prisons tend to be smaller and weaker than perpetrators of such abuse and that mentally ill or retarded prisoners are at particular risk of abuse. See Human Rights Watch, *No Escape: Male Rape in U.S. Prisons* (New York: Human Rights Watch, 2001), pp. 67-69.

¹⁸⁹ Human Rights Watch interview with José Fonseca, April 19, 2002.

In Maranhão, the Marcos Passerini Center reported that two youths died in March 1998, one as the result of burns and another from knife wounds.¹⁹⁰ When we raised these cases with Dione Pereira, an official with the state Foundation for the Child and the Adolescent, she told us that there had been only one case of a youth killed by another detainee in 1998. “It was an issue of rival gangs,” she said.¹⁹¹ She told us that there have been no deaths in detention since that time.

Some officials acknowledged that acts of violence among youths occur, although they generally described such acts as infrequent. “Fights aren’t common, but they exist,” said Maria Ribeiro, an official with the Foundation of the Child and the Adolescent in Amapá. “We work a lot on this issue of respect, but we do have fights inside.”¹⁹²

Detention officials may never hear of most incidents of violence among youths. Speaking of a fight he was in, Maurício A. said, “Nobody saw it. I didn’t tell anybody. If you talk, it’s worse for you.”¹⁹³

Separation by Age, Physical Maturity, and Severity of Offense

The incidents of violence we did hear of underscored the importance of separating youths by age, physical maturity, severity of offense, and other factors, as required by Brazilian law and international standards.¹⁹⁴

Brazilian law allows youths to be held in juvenile detention centers up to the age of twenty-one.¹⁹⁵ Some facilities held those who were eighteen and older in separate wings. For example, officials in Amapá showed us a separate cellblock for adult detainees in Aningá. Authorities in Maranhão and Amazonas described similar arrangements. “There are three housing blocks,” said Dione Pereira, referring to the Centro Esperança in São Luís. “One is for the eighteen-year-olds.”¹⁹⁶

In addition, officials in Aningá appeared to make an effort to make cell assignments by age. Seventeen-year-old Terence M. told us that he always shared his cell with a sixteen- or seventeen-year-old.¹⁹⁷

In contrast, other facilities did not appear to separate either adult detainees from those under the age of eighteen or younger youths from older youths. We saw no evidence of separation by age in the Espaço Recomeço in Pará, for example. In Rondônia, while the Casa do Adolescente housed several older inmates in one dormitory together, nearly twenty youths of all ages were crowded together in the second dormitory and in a punishment cell.

¹⁹⁰ Human Rights Watch interview with Loide Gomes, April 18, 2002; electronic mail message from Francisco Lemos, November 4, 2002.

¹⁹¹ Human Rights Watch interview with Dione Pereira, April 19, 2002.

¹⁹² Human Rights Watch interview with Maria Ribeiro, April 16, 2002.

¹⁹³ Human Rights Watch interview, Centro de Internação de Adolescentes Masculino, Ananideua, Pará, April 9, 2002.

¹⁹⁴ See Estatuto da Criança e do Adolescente, art. 123; Standard Minimum Rules for the Treatment of Prisoners, art. 8. Rule 27.1 of the Beijing Rules notes, “The Standard Minimum Rules for the Treatment of Prisoners and related recommendations shall be applicable as far as relevant to the treatment of juvenile offenders in institutions, including those in detention pending adjudication.”

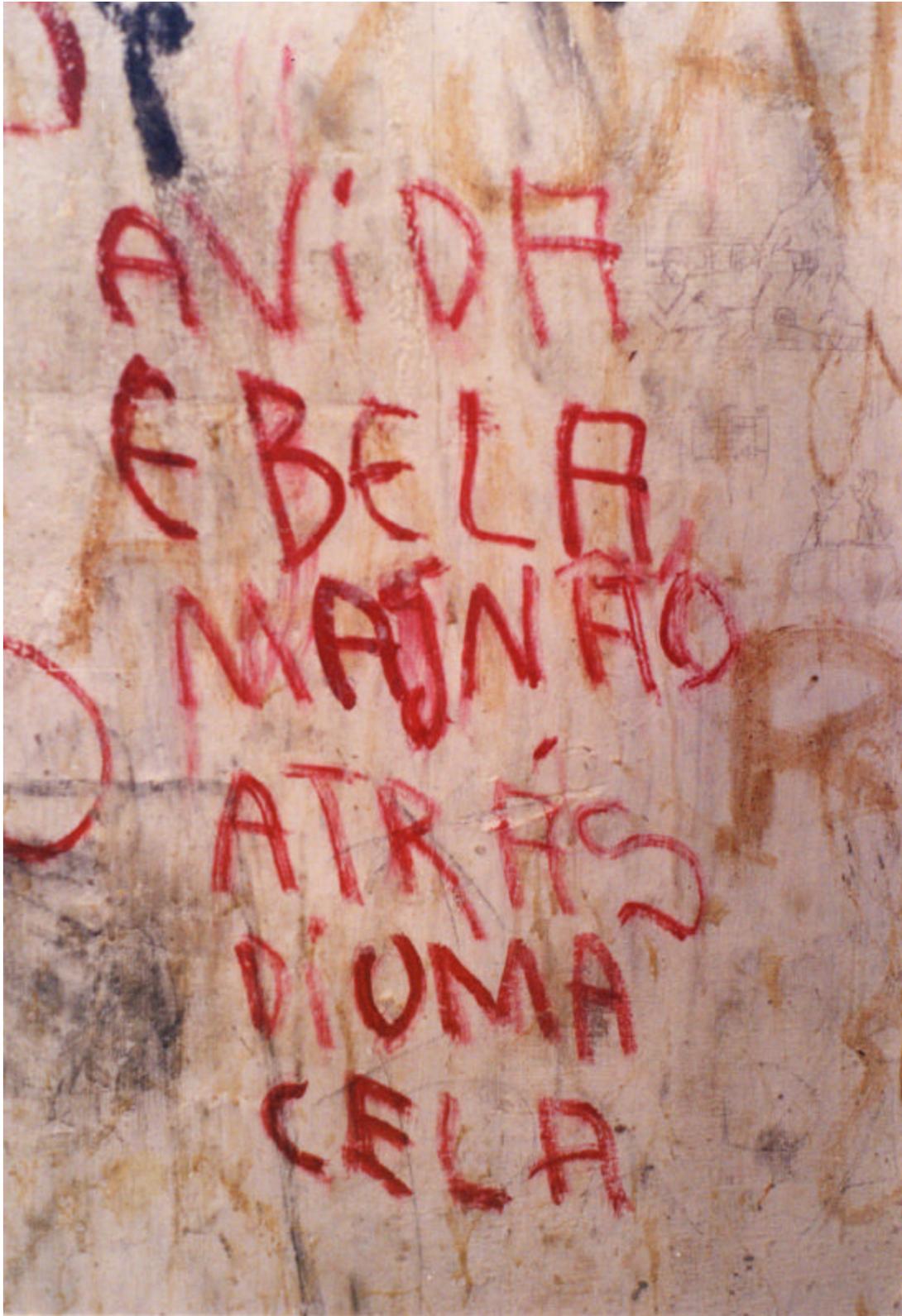
¹⁹⁵ See Estatuto da Criança e do Adolescente, art. 121, sec. 5.

¹⁹⁶ Human Rights Watch interview with Dione Pereira, April 18, 2002.

¹⁹⁷ Human Rights Watch interview, Macapá, Amapá, April 15, 2002.



Cell in girls' detention center, Ananideua, Pará.
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“Life is beautiful, but not from inside a cell.” Written on a wall in the Centro de
Interação Espaço Recomeço, Ananideua, Pará.
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VII. LIVING CONDITIONS

Idleness is a serious problem in many of the detention centers we visited, particularly the Espaço Recomeço detention center in Pará, the Aninga detention center in Amapá, the Raimundo Parente detention center in Amazonas, and the boys' detention center in Rondônia. Boys in each of these facilities told us that they spent significant portions of their day locked in their cells with nothing to do. Girls spent more time out of their cells, but none of the girls' detention centers offered opportunities for them to play sports, the primary means of large-muscle exercise for youths in detention.

Youths in the detention centers we visited generally reported that they were able to see visitors for two hours or more each week. Several detention centers in Pará restrict or bar visitation for particular categories of youths, such as boys on cell restriction in the Espaço Recomeço detention center and pretrial detainees in the girls' detention center. Facilities in the state of Amapá, in contrast, had particularly generous visitation policies, permitting family members to visit throughout the week.

Most youths reported that they were provided with bedding and mattresses or hammocks on their arrival. In the Espaço Recomeço detention center in Pará and the boys' detention center in Rondônia, however, some youths told us that they had slept on the floor at some point during their detention. In addition, youths in the Espaço Recomeço detention center consistently reported problems with hygiene and access to water.

Girls are housed in centers that serve both pretrial and sentenced detainees. Sometimes both types of detainees are placed in the same dormitories or cells. Girls do not generally receive recreational opportunities on par with those afforded to boys; in Pará and Rondônia, for example, girls had no access to sports facilities and appeared to spend much of their recreation time sewing, engaged in other crafts, or asleep. Several of the girls' detention centers, the Marise Mendes center in Amazonas in particular, were markedly older and more dilapidated than most of the boys' detention centers we saw.

Recreation, Exercise, and Idleness

International standards call for every child in detention to have “a suitable amount of time for daily free exercise, in the open air when weather permits,” and “additional time for daily leisure activities.”¹⁹⁸ In conformity with these standards, Brazil's Statute of the Child and the Adolescent guarantees youths in detention the right to cultural activities, sports, and recreation.¹⁹⁹ In practice, however, youths' access to recreational activities and exercise varies from center to center. Boys in the Espaço Recomeço detention center in Pará, the Aninga detention center in Amapá, the Raimundo Parente detention center in Amazonas, and the Casa do Adolescente in Rondônia told us that they spent significant portions of their day locked in their cells with nothing to do. In addition, girls frequently had no opportunities to play sports, the primary means of large-muscle exercise for youths in detention.²⁰⁰

Youths in the Espaço Recomeço detention center described a system of alternating morning and afternoon recreation periods. Lucas G. told us that the guards let him out of his cell at 8 a.m. for four hours one day and then for three hours starting at 3 p.m. the next day. During other times of the day, “we don't do anything,” he told us.²⁰¹ Tobias V., another detainee in the Espaço Recomeço detention center, reported, “We have four-and-a-half hours in the morning one day and three hours in the afternoon the next. With time and with good behavior, you can get more [recreation] time. Two times a week at night, some kids get recreation. That's for some kids, not all.”²⁰² Contrasting conditions in Pará's pretrial detention center with those in the Espaço Recomeço detention center, Henrique O. told us that the pretrial detention center “gives you more attention than in EREC [the Espaço

¹⁹⁸ U.N. Rules for the Protection of Juveniles, art. 47.

¹⁹⁹ Statute of the Child and the Adolescent, art. 124(XII).

²⁰⁰ For a fuller discussion of the lack of recreational opportunities for girls, see “Girls in Detention,” below.

²⁰¹ Human Rights Watch interview, Centro de Internação Espaço Recomeço, Ananideua, Pará, April 8, 2002.

²⁰² Human Rights Watch interview, Centro de Internação Espaço Recomeço, Ananideua, Pará, April 8, 2002.

Recomeço center]. You go to your cell at 10 p.m. to sleep. At 8 a.m. you're out of the cell. . . . In EREC, you spend the whole time in the cell."²⁰³

Those in Amapá's detention center also reported that they spent significant portions of their day locked in their cells. "In Aninga, after lunch, around noon, we spent two hours locked in our rooms. We went out again from two to six in the afternoon. At six, back in the rooms again until seven-thirty in the morning," Terence M. told us.²⁰⁴

Amapá's semiliberty unit was far less restrictive, Terence M. reported. "It's better here," he said. "There aren't bars. We can spend the weekends with our families. We study, and we work too. We can do a [vocational training] course. It's only at 10 p.m. that they put us in the rooms to sleep."²⁰⁵

"Every afternoon they play ball here," claimed a detention center official in the Casa do Adolescente, the boys' pretrial detention center in Rondônia, pointing to a gravel lot littered with construction materials. "Every day," he repeated, telling us that children in the facility spent two hours each day out of their cell.²⁰⁶ But the youths we interviewed told us that they had few opportunities for recreation. Instead, most reported that they were confined to their cells for lengthy periods of time. For example, João L., a seventeen-year-old, told us that he had been locked in his cell for at least twenty days without going outside. Carlos M., seventeen, reported that he entered the center ten days before our interview, spending most of that time in his cell. "Once in a while we go outside. Today we played football," he said.²⁰⁷

Most of the boys' facilities had open spaces where youths could play football and other sports when they were allowed outside. "We play sports, volleyball, sometimes," said Lucas G., held in the Espaço Recomeço detention center. "We used to have ping pong, but the table broke."²⁰⁸

At their discretion, staff may provide activities outside a detention center unless a judge has ordered otherwise in a particular case.²⁰⁹ This could compensate for the lack of facilities for outdoor recreation in several of the detention centers we visited. For example, the boys' pretrial detention unit in Pará does not have open space for recreation, but it is located next to a park that could be used for this purpose if there were sufficient staff and military police to secure the area during the times that detained youths used it. Nevertheless, Edison L. told us that the children in the detention center had not gone to the park during the fifteen days that he had been there. "I've never heard that we get to go to that park," he said.²¹⁰ "No, we haven't been outside the center," said Maurício A., who had been in the pretrial detention center for twenty-six days at the time of our interview.²¹¹

Some facilities offered youths a wide variety of additional activities. The most popular was *capoeira*, a martial arts form with roots in African dance. Youths in the Dagmar Feitoza detention center, Amazonas' facility for older boys, were particularly positive about the variety of recreational and educational activities offered there. Contrasting that facility with the Raimundo Parente detention center, the state's facility for younger boys, sixteen-year-old Gilberto S. told us that the center for older youths was much better. "It's much different from there

²⁰³ Human Rights Watch interview, Centro Sócio-Educativo Masculino, Ananideua, Pará, April 12, 2002.

²⁰⁴ Human Rights Watch interview, Macapá, Amapá, April 15, 2002.

²⁰⁵ Human Rights Watch interview, Macapá, Amapá, April 15, 2002.

²⁰⁶ Human Rights Watch interview with "Antônio," detention center official, Casa do Adolescente, Porto Velho, Rondônia, April 24, 2002. This official refused to provide his full name, identifying himself as "just Antônio."

²⁰⁷ Human Rights Watch interview, Casa do Adolescente, Porto Velho, Rondônia, April 24, 2002.

²⁰⁸ Human Rights Watch interview, Centro de Internação Espaço Recomeço, Ananideua, Pará, April 8, 2002.

²⁰⁹ "Será permitida a realização de atividades externas, a critério da equipe técnica da entidade, salvo expressa determinação judicial em contrário." Estatuto da Criança e do Adolescente, art. 1, para. 1.

²¹⁰ Human Rights Watch interview, Centro de Internação de Adolescentes Masculino, Ananideua, Pará, April 9, 2002.

²¹¹ Human Rights Watch interview, Centro de Internação de Adolescentes Masculino, Ananideua, Pará, April 9, 2002.

[Raimundo Parente]. Here there are studies and work, activities like *capoeira*. There they don't have much, just an area for football. They don't have studies. I didn't study there. Here I do."²¹²

Contact with the Outside World

Brazilian law guarantees children in detention the right to receive weekly visits. This right may only be suspended by a judge, and then only temporarily when there are "serious and well founded reasons why such visits would be prejudicial to the interests of the adolescent."²¹³ These provisions conform with international standards, which call for states to guarantee children "the right to receive regular and frequent visits, in principle once a week and not less than once a month, in circumstances that respect the need of the juvenile for privacy, contact and unrestricted communication with the family and the defence counsel."²¹⁴ In general, youths reported that they were able to see visitors for up to two hours each week and in some cases longer; they encountered few problems with visits. In several centers in Pará, however, we heard that particular categories of youths—those on cell restriction in the Espaço Recomeço detention center and pretrial detainees in the girls' detention center—have limited or no visitation. For most others, the only complaint was the lack of conjugal visits. Such visits are commonly permitted for adults—at least for men—but not for youths, even those who are married.

In a typical account, Henrique O. told us that in the Espaço Recomeço detention center, "visits are on Sundays from nine to noon. I had visits from my father, mother, grandmother, aunt, from various relatives. There weren't any problems."²¹⁵ Similarly, youths in the Centro Juvenil Masculino in Pará reported that they were able to receive visits for two hours on Sundays.²¹⁶ Edison L., a fifteen-year-old in the pretrial detention center in Pará, said, "We get visits for two hours on Sundays. I've had visits two times. I received two full hours."²¹⁷

We heard reports that youths placed on cell restriction in the Espaço Recomeço detention center have limited visitation. Several of those we interviewed told us that visits were shorter for youths on cell confinement. Some said that youths on cell restriction received no visits at all. "On cell confinement, no, you don't get visits," Henrique O. told us.²¹⁸

We also heard that authorities in the Espaço Recomeço detention center restricted visits after a disturbance at the beginning of 2002. "In EREC, visits were good until the rebellion," said Flávio M., referring to the first of two such incidents during the first four months of the year. "Then the visits were only fifteen minutes."²¹⁹

In addition, we heard from girls held in Pará that pretrial detainees cannot receive visits. "Pretrial detainees (*provisores*) don't have visits. They're only for the sentenced ones. Just phone calls. The time depends. Fifteen minutes, maybe," reported Inês F.²²⁰

Facilities in the state of Amapá had particularly liberal visitation rules. Eddy A. told us that he was able to receive visits for two hours; his mother visited him on Thursdays, and his wife and daughter visited him on Fridays.²²¹ Terence M., an eighteen-year-old who spent ten months in the Aninga detention center when he was

²¹² Human Rights Watch interview, Centro Sócio-Educativo Assistente Social Dagmar Feitoza, Manaus, Amazonas, April 22, 2002.

²¹³ Estatuto da Criança e do Adolescente, art. 124, para. 2 ("A autoridade judiciária poderá suspender temporariamente a visita, inclusive de pais ou responsável, se existirem motivos sérios e fundados de sua prejudicialidade aos interesses do adolescente."). The right to receive visits at least on a weekly basis is guaranteed in article 124(VII) of the statute. Children also have the right to correspond with family members and friends. Ibid., art. 124(VIII).

²¹⁴ Beijing Rules, art. 60.

²¹⁵ Human Rights Watch interview, Centro Sócio-Educativo Masculino, Ananideua, Pará, April 12, 2002.

²¹⁶ Human Rights Watch interview, Centro Juvenil Masculino, Ananideua, Pará, April 10, 2002.

²¹⁷ Human Rights Watch interview, Centro de Internação de Adolescentes Masculino, Ananideua, Pará, April 9, 2002.

²¹⁸ Human Rights Watch interview, Centro Sócio-Educativo Masculino, Ananideua, Pará, April 12, 2002.

²¹⁹ Human Rights Watch interview, Centro Juvenil Masculino, Ananideua, Pará, April 10, 2002.

²²⁰ Human Rights Watch interview, Centro de Internação de Adolescentes Femenino, Ananideua, Pará, April 11, 2002.

²²¹ Human Rights Watch interview, Macapá, Amapá, April 16, 2002.

seventeen, told us that he was able to have visits every Sunday for up to three hours.²²² In Amapá's semiliberty unit, in addition to the possibility of spending weekends with family members, youths can receive visits "at whatever time they want, except at night," according to fifteen-year-old Jacó G.²²³

In two of the centers we visited, youths were periodically allowed to spend nights with their families. Youths in Amapá's semiliberty unit could spend weekends with family members, Jacó G. told us.²²⁴ The same was true for many of the youths in the Centro Sócio-Educativo Masculino, in the state of Pará, who are able to stay with their families every other weekend. Henrique B. told us that he had gone home ten times at the time of our interview in April 2002.²²⁵

For many youths, the biggest obstacle to visitation is distance. "I've had visits from my aunts. They come on Sundays, from the interior. It's a bit far," said Iolanda D., held in the girls' detention center in Pará.²²⁶ Lucas G., in the Espaço Recomeço detention center in Pará, told us, "My family can come on Fridays. They just discovered that I'm here. They're going to visit me." He reported that his family must travel two hours from their home to visit him.²²⁷

Youths in facilities that allowed them to spend weekends with families also report that the cost of travel sometimes prevents them from returning home. "It's difficult because of the money," said Jacó G., who told us that it cost 20 *reais* (approximately U.S.\$9 at the time of our interview) to travel to and from his parents' house. He tries to go every weekend, but he is not always able.²²⁸

Many boys complained about the lack of conjugal visits, and the subject provoked much debate among detention center officials. Often referred to as "intimate visits," conjugal visits are allowed in adult men's prisons in Brazil and elsewhere in Latin America,²²⁹ but they are not currently permitted in any of the juvenile detention centers we visited. José Asenção Fonseca told us that authorities in Maranhão were considering conjugal visits for youths in detention. Speaking of boys in detention, he said, "Fifty percent have children. Ten percent of the adolescents are married. They all have girlfriends."²³⁰

In Amazonas, we learned that the juvenile detention centers used to permit boys in long-term relationships (but not those with same-sex partners) to have monthly conjugal visits. "We would check to see if the adolescent had a fixed companion, a fixed girlfriend," said Paulo Sampeio. Conjugal visits were discontinued after authorities felt the visits caused problems with other youths.²³¹

The lack of conjugal visits for these youths may also reflect societal reluctance to acknowledge the sexuality of youths. "The right to sexuality is not seen by the system," said Francisco Lemos. "There is a very strong taboo on this issue."²³² Loide Gomes added, "People are not prepared for the sexuality of these children."²³³

²²² Human Rights Watch interview, Macapá, Amapá, April 15, 2002.

²²³ Human Rights Watch interview, Macapá, Amapá, April 15, 2002.

²²⁴ Ibid.

²²⁵ Human Rights Watch interview, Centro Sócio-Educativo Masculino, Ananideua, Pará, April 12, 2002.

²²⁶ Human Rights Watch interview, Centro de Internação de Adolescentes Femenino, Ananideua, Pará, April 11, 2002.

²²⁷ Human Rights Watch interview, Centro de Internação Espaço Recomeço, Ananideua, Pará, April 8, 2002.

²²⁸ Human Rights Watch interview, Macapá, Amapá, April 15, 2002.

²²⁹ See Human Rights Watch, *Behind Bars in Brazil*, pp. 116-18; Human Rights Watch/Americas, *Punishment Before Trial: Prison Conditions in Venezuela* (New York: Human Rights Watch, 1997), p. 82. Adult women, in contrast, are frequently denied such visits. See *Behind Bars in Brazil*, pp. 137-39; *Punishment Before Trial*, pp. 100-102.

²³⁰ Human Rights Watch interview with José Fonseca, April 19, 2002.

²³¹ Human Rights Watch interview with Paulo Sampeio, April 22, 2002.

²³² Human Rights Watch interview with Francisco Lemos, April 18, 2002.

²³³ Human Rights Watch interview with Loide Gomes, April 18, 2002.

Bedding

In general, youths reported that they were provided with bedding and mattresses or hammocks upon arrival. The only exceptions we heard of were in the Espaço Recomeço detention center in Pará and the Casa do Adolescente, the boys' detention center in Rondônia. Youths in each of those facilities told us that they had slept on the floor. We observed that the cells in the Casa do Adolescente had many fewer mattresses and hammocks than the number of youths occupying them.

In the Espaço Recomeço detention center, youths reported that they lacked mattresses for short periods of time, usually immediately after arrival or transfer to a different cell. For instance, Lucas G. reported that he had no mattress when he first arrived at the Espaço Recomeço center in March 2002. He was given one after several days, but he told us that it was destroyed in the fire during the April riot.²³⁴

In the Casa do Adolescente, in contrast, we saw no indication that those who lacked mattresses or hammocks would eventually receive them.

The U.N. Rules for the Protection of Juveniles recommend, "Every juvenile should, in accordance with local or national standards, be provided with separate and sufficient bedding, which should be clean when issued, kept in good order and changed often enough to ensure cleanliness."²³⁵

Hygiene and Access to Water

Youths in the Espaço Recomeço consistently reported problems with hygiene and access to water. Elsewhere, we heard few complaints.

In the Espaço Recomeço detention center, as in most detention centers, youths are responsible for washing their own clothes. We observed youths in other centers washing their clothing in sinks or tubs located near their living areas. In the Espaço Recomeço center, however, several youths told us that they did not have enough time outside their cells to wash their clothes. Romão S. reported that he washed his clothes and sheets in the toilet when he was in the Espaço Recomeço detention center.²³⁶

The cells in many of the detention centers we visited, including the Espaço Recomeço center, do not have sinks or faucets to provide drinking water. As a result, youths must ask guards for water when they are thirsty. Those in the Espaço Recomeço detention center, in particular, reported that guards often did not respond to their requests. "Here the guards bring water," said Flávio M., seventeen, in Belém's Centro Juvenil Masculino. "But there [in the Espaço Recomeço detention center] they take their time. It's very hot, and they're slow about it. You have to ask the guards a lot."²³⁷ "At night it was difficult," said Romão S. of his time in the Espaço Recomeço center. "After breakfast they give you water, and after lunch. At dinner they come with a can of water. But at night you called them and they didn't come. . . . At night it was very difficult."²³⁸

International standards provide that "[c]lean drinking water should be available to every juvenile at any time."²³⁹ More generally, children deprived of their liberty "have the right to facilities and services that meet all the requirements of health and human dignity."²⁴⁰

²³⁴ Human Rights Watch interview, Centro de Internação Espaço Recomeço, Ananideua, Pará, April 8, 2002.

²³⁵ U.N. Rules for the Protection of Juveniles, art. 33.

²³⁶ Human Rights Watch interview, Centro Juvenil Masculino, Ananideua, Pará, April 8, 2002.

²³⁷ Human Rights Watch interview, Centro Juvenil Masculino, Ananideua, Pará, April 10, 2002.

²³⁸ Human Rights Watch interview, Centro Juvenil Masculino, Ananideua, Pará, April 10, 2002.

²³⁹ U.N. Rules for the Protection of Juveniles, art. 37.

²⁴⁰ *Ibid.*, art. 31.

Girls in Detention

There are many fewer girls than boys in detention. At the time of our detention center visits in April 2002, there were six girls in detention in Amapá, twenty-four in Amazonas, three in one of Maranhão's two detention centers for girls, eight in Pará, and four in Rondônia.²⁴¹ Of the total number of youths in detention in each facility on the day of our visits, less than 12 percent were girls. (Of the forty-four youths we interviewed, eight were girls.) While these data are not necessarily representative—they are based on one-day snapshots rather than monthly or yearly averages—they are consistent with girls' estimates of the number of youths in their centers during their time in detention. For instance, Patrícia D. told us that she was held with between two and four other girls during her time in Aninga, the detention center in Amapá.²⁴² Based on these data, the ratio of girls to boys in juvenile detention is higher than that for women to men in the adult prison system in Brazil and other countries in the region.²⁴³ Even so, there are many fewer girls in detention than boys.

As a result of these low numbers, there are fewer detention centers for girls. Amazonas, Pará, and Rondônia have only one girls' detention center each. Maranhão has two. Amapá houses girls in a separate wing of Aninga, its sole juvenile detention center. In each of these facilities, girls who are awaiting trial are housed together with those who have been sentenced to internment. The centers may also house girls who have been sentenced to the less-restrictive measure of semiliberty.

In the Aninga detention center in Amapá, which held both boys and girls in separate areas of the center, girls told us that they were allowed to spend less time in the common recreation areas than the boys, presumably as a result of the need to keep girls and boys separated. "We complained a lot because of the lack of space," Patrícia D. said. "The time we spent out in the sun was just two hours, the rest of the time we were locked up. That was the difference. The majority were boys. They had more attention and more freedom."²⁴⁴

Patrícia D. told us that girls in the Aninga detention center felt neglected in other ways as a result of their placement in the same center with boys. "There was a small group of psychologists for all of us, and they would forget about the girls a little. There should be a psychologist who works only with the girls," Patrícia D. Ultimately, she concluded, the state should have "a separate space for women."²⁴⁵

Even in Amazonas, Pará, and Rondônia, each of which has a separate girls' detention center, we heard from girls that they had few opportunities for outdoor recreation and exercise. None of these detention centers had the open spaces that were common in the boys' facilities we visited. In Pará, where the girls' facility and several of the other detention center are next to a public park, youths told us that they had never been allowed to use it. Referring to the park, Iolanda D. told us, "Only those who are on semiliberty can go to the complex. We have art every day. Aside from that, we spend the entire time without doing anything. They don't do anything outside the center."²⁴⁶

More generally, disparities go beyond the lack of comparable recreational opportunities. Several girls' detention facilities are markedly older and more dilapidated than most of the boys' detention centers we saw. In Amazonas, the girls' detention center has only two dormitories to house up to two dozen girls. As a result, detention center staff reported, disputes among girls are common. Staff told us that the absence of alternatives meant that they

²⁴¹ Human Rights Watch interviews with Raimundo Monteiro, April 8, 2002; staff, Centro de Internação de Adolescentes Masculino, Ananideua, Pará, April 9, 2002; staff, Centro Juvenil Masculino, Ananideua, Pará, April 10, 2002; staff, Centro de Internação de Adolescentes Feminino, Ananideua, Pará, April 11, 2002; Angela Pompeu, April 12, 2002; Maria Ribeiro, April 15, 2002; Dione Pereiral, April 19, 2002; Paulo Sampeio, April 22, 2002; staff, Casa do Adolescente, Porto Velho, Rondônia, April 24, 2002; staff, Casa da Adolescente, Porto Velho, Rondônia, April 25, 2002.

²⁴² Human Rights Watch interview, Santana, Amapá, April 16, 2002.

²⁴³ See Human Rights Watch, *Behind Bars in Brazil*, p. 128.

²⁴⁴ Human Rights Watch interview, Santana, Amapá, April 16, 2002.

²⁴⁵ Human Rights Watch interview, Santana, Amapá, April 16, 2002.

²⁴⁶ Human Rights Watch interview, Centro de Internação de Adolescentes Feminino, Ananideua, Pará, April 11, 2002.

frequently resorted to placing youths in the punishment cells when they could not get along with the others in the dormitories.²⁴⁷

We did not visit either of the two detention facilities for girls in Maranhão. According to Francisco Lemos, an attorney with the nongovernmental Marcos Passerini Center, “the situation for girls is much better” than that of boys in the state. He told us “The girls’ detention center [in São Luís] doesn’t have cells; it has rooms instead. It’s a house, with a living room, television, and a kitchen, like a residence.”²⁴⁸

Children who are deprived of their liberty, boys and girls alike, have the right “to be treated with humanity and respect for the inherent dignity of the human person and in a manner which takes into account the needs of a person of his or her age.”²⁴⁹ The U.N. Rules for the Protection of Children Deprived of their Liberty provide authoritative guidance in interpreting the content of this provision. In particular, the rules emphasize children’s need for “sensory stimuli, opportunities for association with peers and participation in sports, physical exercise and leisure-time activities.”²⁵⁰

When a state houses girls in facilities that are of markedly lower quality than its detention centers for boys and afford girls fewer opportunities for exercise and recreation than boys in detention receive, it discriminates on the basis of gender, in violation of international law. Under the Convention on the Elimination of All Forms of Discrimination against Women, ratified by Brazil in 1984, “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women . . . on the basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field” is prohibited.²⁵¹ Similarly, the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child bar discrimination on the basis of gender.²⁵²

VIII. EDUCATION

The right to free, obligatory primary education is guaranteed in the Brazilian Constitution, and the Statute of the Child and the Adolescent expressly provides that youths deprived of their liberty, including those in pretrial detention, have the right “to receive schooling and vocational training.”²⁵³ Yet the majority of youths in detention have only completed between one and four years of primary education; many are illiterate.

Access to schooling would be particularly beneficial for youths in detention, many of whom are already at an educational disadvantage when they arrive. But many of the youths we interviewed do not receive an education while they are in detention. João L., seventeen, who had been in Rondônia’s Casa do Adolescente for nearly one month when we interviewed him, had not attended classes since his arrival.²⁵⁴ Lucas G., held in the Espaço Recomeço detention center, told us, “I’ve spent a month in this place. I’m not studying.”²⁵⁵ Damião P., who had

²⁴⁷ Human Rights interview, Manaus, Amazonas, April 22, 2002.

²⁴⁸ Human Rights Watch interview with Francisco Lemos, April 18, 2002.

²⁴⁹ Convention on the Rights of the Child, art. 37(c).

²⁵⁰ U.N. Rules for the Protection of Juveniles, art. 32.

²⁵¹ Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), *adopted* December 18, 1979, 1249 U.N.T.S. 13 (entered into force September 3, 1981, and ratified by Brazil February 1, 1984), art. 1.

²⁵² See ICCPR, art. 26; Convention on the Rights of the Child, art. 2.

²⁵³ See Constitution of the Federative Republic of Brazil, arts. 205-13, 227; Estatuto da Criança e do Adolescente, article 124(XI) (“São direitos do adolescente privado de liberdade, entre outros, os seguintes: . . . receber escolarização e profissionalização . . .”) The statute also provides, “During the period of internment, including temporary internment, pedagogical activities will be obligatory.” *Ibid.*, art. 123, sole para. (“Durante o período de internação, inclusive provisória, serão obrigatórias atividades pedagógicas.”).

²⁵⁴ Human Rights Watch interview, Casa do Adolescente, Porto Velho, Rondônia, April 24, 2002.

²⁵⁵ Human Rights Watch interview, Centro de Internação Espaço Recomeço, Ananideua, Pará, April 8, 2002.

been in the fourth year of primary school before he was detained, reported, “From the time I entered EREC [the Espaço Recomeço center], I haven’t studied.” He told us that he had been in the detention center for just over two months.²⁵⁶ Similarly, Gilson R. and Tobias V. told us that they were not attending classes.²⁵⁷

In the pretrial detention unit in Amazonas, no classes were offered. Staff and youths in the Raimundo Parente detention center in Amazonas also reported that education was not yet offered, although staff told us that classes were about to begin. “We don’t have education at this moment,” the center’s director said.²⁵⁸ A state education official told us, “I have a teacher for the morning classes. The problem is the transportation.” When we asked him when he expected to be able to offer classes at the Raimundo Parente detention center, he replied, “By the beginning of May [2002] the school will certainly be functioning.”²⁵⁹ “What we most need here is schooling,” Orlando S. told Human Rights Watch.²⁶⁰

In other detention facilities, there was no discernable pattern to which youths were permitted to attend classes. In the Espaço Recomeço detention center, for example, we heard from other youths who reported that they were in school. Maurício A. told us, “We study Monday to Friday. I’m studying. I’m in the second series.”²⁶¹ The same was true in Rondônia.

Some youths told us that they were unable to attend classes while in detention because their facility did not offer classes at their grade level. “Here they only have up to the fourth [series],” said Flávio M., a seventeen-year-old in the Centro Juvenil Masculino who had been in the sixth series in the Espaço Recomeço detention center. “They don’t have anything for me. I want to study. I want to do a course in computers.”²⁶² Loide Gomes, a social worker with the Marcos Passerini Center in São Luís, explained, “There are few students in middle school. That was always a problem.”²⁶³

Others did not receive an education because the judges in their cases had entered special orders prohibiting them from leaving their detention centers, even to pursue their studies. Patrícia D., held in the Aningá detention center from August 2000 until May 2001, told us that she was not able to attend classes for this reason. “No, because I’d finished primary. I was in the first year of secondary. They didn’t permit me to study outside [the detention center]. . . . I couldn’t leave because of the judge’s order.”²⁶⁴

Youths who were placed on cell confinement frequently reported that they could not attend classes. This was particularly true in the Espaço Recomeço detention center. Henrique O. told us that there were no classes for those in cell confinement. “No, you can’t attend them,” he said. Asked why that was, he replied, “Because you have to be there,” in the cell.²⁶⁵

Those who did go to school while in detention gave varying estimates of the amount of time they spent in class. All of those we interviewed in Amapá’s facilities told us that they spent four hours in school per day. Youths in the Espaço Recomeço detention center gave the lowest estimates of time spent in class, usually two hours per day or less.

²⁵⁶ Human Rights Watch interview, Centro de Internação Espaço Recomeço annex, Ananideua, Pará, April 8, 2002.

²⁵⁷ Human Rights Watch interviews, Centro de Internação Espaço Recomeço, Ananideua, Pará, April 8, 2002.

²⁵⁸ Human Rights Watch interview with Mário Rebelo, April 23, 2002.

²⁵⁹ “Com certeza ao principio de maio será funcionado.” Human Rights Watch interview with Raimundo José Pereira Barbosa, Escola Estadual Josephina de Melo, Manaus, Amazonas, April 23, 2002.

²⁶⁰ Human Rights Watch interview, Centro Sócio-Educativo Senador Raimundo Parente, Manaus, Amazonas, April 23, 2002.

²⁶¹ Human Rights Watch interview, Centro de Internação de Adolescentes Masculino, Ananideua, Pará, April 9, 2002.

²⁶² Human Rights Watch interview, Centro Juvenil Masculino, Ananideua, Pará, April 10, 2002.

²⁶³ Human Rights Watch interview with Loide Gomes, April 18, 2002.

²⁶⁴ Human Rights Watch interview, Santana, Amapá, April 16, 2002.

²⁶⁵ Human Rights Watch interview, Centro Sócio-Educativo Masculino, Ananideua, Pará, April 12, 2002.

“In general, education is very basic,” said Francisco Lemos.²⁶⁶ “They use a system of acceleration,” said Loide Gomes, describing a program of studies that is designed to teach students three years of basic education in fifteen months.²⁶⁷

Even when children are able to attend classes, their schoolwork may not be recognized by the educational system in their communities. “Schooling [in detention] doesn’t have formal validity,” Lemos noted.²⁶⁸

The Right to Education

The right to education is set forth in the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights (known as the Protocol of San Salvador). Each of these treaties specifies that primary education must be “compulsory and available free to all.” Secondary education, including vocational education, must be “available and accessible to every child,” with the progressive introduction of free secondary education.²⁶⁹ In addition, the ICCPR guarantees each child the right to “such measures of protection as are required by his status as a minor,” a provision that the Human Rights Committee has interpreted to include education sufficient to enable each child to develop his or her capacities and enjoy civil and political rights.²⁷⁰

Under article 26 of the ICCPR, Brazil is obligated to respect the entitlement of every person “without discrimination to the equal protection of the law.” In addition, the Convention against Discrimination in Education prohibits:

any discrimination, exclusion, limitation or preference which, being based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education and in particular . . . [o]f depriving any person or group of persons of access to education of any type²⁷¹

Consistent with these nondiscrimination provisions, when a state provides education to its children it may not arbitrarily deny an education to particular groups of children. The state may make distinctions among groups of individuals only to the extent that those distinctions are based on reasonable and objective criteria.²⁷²

International standards clarify that detention status is not a permissible basis for the denial of education to children. As reaffirmed in the U.N. Rules for the Protection of Juveniles, youths do not lose their right to an education when they are confined. “Every juvenile of compulsory school age” who is deprived of his or her liberty “has the right to an education suited to his or her needs and abilities,” education which should be

²⁶⁶ Human Rights Watch interview with Francisco Lemos, April 18, 2002.

²⁶⁷ Human Rights Watch interview with Loide Gomes, April 18, 2002.

²⁶⁸ Human Rights Watch interview with Francisco Lemos, April 18, 2002.

²⁶⁹ The International Covenant on Economic, Social and Cultural Rights provides that primary education “shall be available to all” and that secondary education “shall be made generally available and accessible to all by every appropriate means.” International Covenant on Economic, Social and Cultural Rights, *adopted* December 16, 1966, 993 U.N.T.S. 3 (entered into force January 2, 1976, and ratified by Brazil on January 24, 1992), art. 13. Article 28 of the Convention on the Rights of the Child recognizes “the right of the child to education”; states party undertake to make secondary education “available and accessible to every child.” The Protocol of San Salvador contains similar provisions. See Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights (“Protocol of San Salvador”), *adopted* November 17, 1988, O.A.S.T.S. No. 69 (entered into force November 16, 1999), art. 13(3). Brazil acceded to the protocol on August 8, 1996.

²⁷⁰ See ICCPR, art. 24; U.N. Human Rights Committee, *General Comment 17*, para. 3.

²⁷¹ Convention against Discrimination in Education, *adopted* December 14, 1960, 429 U.N.T.S. 93 (entered into force May 22, 1962), art. 1. Brazil ratified the convention on April 19, 1968.

²⁷² See Human Rights Committee, *General Comment 18, Non-Discrimination*, 37th sess., November 10, 1989, para. 13.

“designed to prepare him or her for return to society.”²⁷³ The Beijing Rules call upon government officials to ensure that children deprived of their liberty “do not leave the institution at an educational disadvantage.”²⁷⁴

The right to education is a right of progressive implementation, meaning that implementation may take place over a period of time, subject to limits on available resources. A state party to the International Covenant on Economic, Social and Cultural Rights agrees “to take steps . . . to the maximum of its available resources” to the full realization of the right to education.²⁷⁵ But as the Committee on Economic, Social and Cultural Rights has stated, the prohibition on discrimination “is subject to neither progressive realization nor the availability of resources; it applies fully and immediately to all aspects of education and encompasses all internationally prohibited grounds of discrimination.”²⁷⁶

IX. MEDICAL AND MENTAL HEALTH SERVICES

Every facility we visited provided some basic medical services to detainees, and most youths reported that they were able to see medical staff upon request. Nevertheless, girls were not routinely offered gynecological examinations, and not all youths received a routine medical examination upon admission.

Social workers and, in some centers, psychologists on staff play a valuable role in providing basic mental health services to youths in detention, even though such services are not their primary duty. We spoke to some youths who credited these professional staff for helping them through difficult periods of adjustment to life in detention.

Finally, youths in all facilities with the exception of the Casa do Adolescente, the boys’ detention center in Rondônia, told us that they received health information while in detention.

General Medical Care

Most youths reported that they had seen medical staff during their time in detention; they reported few delays in seeing a staff member after they asked.

In facilities that rely on community health care services rather than having medical personnel on staff, however, youths reported somewhat longer waits. Lincoln E., held in the Aninga detention center, reported, “There’s no nurse in the center. Every time we need to see the nurse, we have to leave. We go to the hospital.” Even so, he told us that he sees a nurse within one day after he asks detention center staff.²⁷⁷

Similarly, youths who need treatment that the detention center staff could not provide generally reported that they were transferred to area hospitals quickly. Maurício B., held in the Dagmar Feitoza detention center in Amazonas, told us that when he was sick, “The nurse took me to a doctor. It happened the same day. I told the guard, then I went to the nurse, and then to the doctor in the hospital.”²⁷⁸

²⁷³ U.N. Rules for the Protection of Juveniles, art. 38.

²⁷⁴ Beijing Rules, art. 26.6.

²⁷⁵ International Covenant on Economic, Social and Cultural Rights, art. 2(1). See also Convention on the Rights of the Child, art. 28. Nevertheless, “[t]he realization of the right to education over time, that is ‘progressively,’ should not be interpreted as depriving States parties’ obligations of all meaningful content. Progressive realization means that States parties have a specific and continuing obligation ‘to move as expeditiously and effectively as possible’ towards the full realization of article 13” of the covenant. Committee on Economic, Social and Cultural Rights, *General Comment 13, The Right to Education*, para. 44.

²⁷⁶ Committee on Economic, Social and Cultural Rights, *General Comment 13*, para. 31. More generally, the committee has stated that the obligation to guarantee the exercise of rights in the covenant without discrimination is “of immediate effect.” Committee on Economic, Social and Cultural Rights, *General Comment 3, The Nature of States Parties’ Obligations*, para. 2.

²⁷⁷ Human Rights Watch interview, Macapá, Amapá, April 16, 2002.

²⁷⁸ Human Rights Watch interview, Manaus, Amazonas, April 22, 2002.

In Graça Q.'s case, however, the delay was much longer. "I saw a doctor two times, here in the center," she said. "I wanted to see the doctor because I was sick, my throat hurt. I asked the educators. I waited three or four days to see the doctor."²⁷⁹

We heard from many youths, particularly those held in Pará, that they did not receive a medical examination upon admission. Josefina S. told us that she did not have a medical exam when she entered Aninga.²⁸⁰ But Damião P., a detainee in the Espaço Recomeço detention center, told us, "When I entered, I had a medical exam."²⁸¹

Officials at girls' detention centers told us that they provided gynecological examinations upon request, although only a few of the girls we interviewed told us that they had asked for or received one. In Pará, Inês F.—seven months pregnant at the time of our interview—told us, "I haven't seen a doctor during the time that I've been here," during a period of at least four weeks.²⁸²

Officials in every state acknowledged that HIV and other sexually transmitted diseases were among the principal health concerns for youths in detention. Yet none of the detention centers we visited provided condoms to youths.²⁸³ This was the case even in centers that permit youths to spend weekends at their homes, although some detention officials acknowledged that those youths should have access to condoms. Most officials discounted the possibility that youths in detention may have sexual relations with each other, whether voluntarily or coerced.²⁸⁴

In Maranhão, youths are tested for HIV and other sexually transmitted diseases upon entry, according to Dione Pereira. She told us that there were no youths who were HIV-positive in the state's detention facilities at the time of our April 2002. Nineteen youths in detention had other sexually transmitted diseases, ten in the Esperança Youth Center and nine in the pretrial detention center.²⁸⁵ Because the timing of our visit meant that we could not interview youths in Maranhão, we were unable to determine whether medical staff obtained children's informed consent prior to conducting HIV tests and provided them with pre- and post-testing counseling. The International Guidelines on HIV/AIDS and Human Rights call for these steps, among others, to ensure that public health practices in response to HIV/AIDS are consistent with international human rights obligations.²⁸⁶

Officials in Amapá told us that they knew of one HIV-positive detainee, a girl. "Her daily life is normal. The other adolescents know that transmission isn't through talking to someone." They told us that she was receiving individualized medical care from the Department of Health.²⁸⁷

We did not speak to any youths who complained of poor medical care, but the Human Rights Commission of the federal Chamber of Deputies found that health services in the boys' pretrial detention center in Pará were inadequate when it visited in March 2001:

Several of the boys' present health problems that are simply ignored. It can be said that the majority of them suffer from skin diseases—caused by the conditions of incarceration and by lack of exposure to the sun. One of the youths—R.S., age sixteen—reported his need for a surgical operation on his stomach, which had been indicated for a long time. For twenty-eight days he waited for some attention

²⁷⁹ Human Rights Watch interview, Centro de Internação de Adolescentes Femenino, Ananideua, Pará, April 11, 2002.

²⁸⁰ Human Rights Watch interview, Santana, Amapá, April 16, 2002.

²⁸¹ Human Rights Watch interview, Espaço Recomeço annex, Ananideua, Pará, April 8, 2002.

²⁸² Human Rights Watch interview, Centro de Internação de Adolescentes Femenino, Ananideua, Pará, April 11, 2002.

²⁸³ The International Guidelines recommend that prison authorities provide prisoners with means of prevention, including condoms. *Ibid.*, Guideline 4, para. 29(e).

²⁸⁴ See also Chapter V, "Violence Among Youths."

²⁸⁵ Human Rights Watch interview with Dione Pereira, April 19, 2002.

²⁸⁶ Office of the U.N. High Commissioner for Human Rights and the Joint U.N. Programme on HIV/AIDS, *HIV/AIDS and Human Rights: International Guidelines*, U.N. Sale No. E-98-XIV.1 (1996), Guideline 3, paras. 28(b) and (c).

²⁸⁷ Human Rights Watch interview, Fundação da Criança e do Adolescente, April 15, 2002.

[to his case] in CIAM [the boys' pretrial detention center] without ever having been examined by a doctor.²⁸⁸

The commission expressed similar concerns about the Espaço Recomeço detention center, concluding, "The health situation of the detainees is troubling. Many have skin diseases; others suffer from dental problems as well."²⁸⁹

Mental Health

While we made no attempt to identify the mental health needs of individual youths, we asked about the availability of mental health services in every detention center we visited. Some facilities have psychologists on staff, and all have at least one social worker.

Youths who did receive mental health services felt that those services aided them during a difficult adjustment to life in detention. Patrícia D., who saw a psychologist shortly after her arrival at the Aninga detention center, in Amapá state, told Human Rights Watch, "She helped me, certainly. She helped me a lot." She reported that she still keeps in touch with the psychologist.²⁹⁰

We did see a girl in Rondônia whom the staff identified as mentally impaired. They told us that she was not a detainee; instead, she was living there because she had no other place to go.²⁹¹ We did not hear of any detainees with mentally retardation or mental illness during our visits. In the Espaço Recomeço detention center, however, the Human Rights Commission of the Chamber of Deputies saw at least two mentally ill youths who in its judgment should have been placed in a nonpenal institution capable of caring for them.²⁹²

Access to Health Information

Youths in every detention facility reported that they received information on health issues; AIDS and other sexually transmitted diseases were the topics they mentioned most frequently. Presentations were the most common means of presenting this information. "The people here do workshops, and sometimes people come in from outside. We learn about things like sexually transmitted diseases," said Iolanda D.²⁹³ "People from the outside come," Henrique O. said of the Centro Sócio-Educativo Masculino in Pará. He told us that subjects included the prevention of HIV.²⁹⁴ "There are workshops on health, AIDS, sexually transmitted diseases, other things," Lincoln E. said.²⁹⁵

Youths commented that workshops and presentations were more effective than written materials that were not accompanied by explanations. "They gave us information in EREC [the Espaço Recomeço detention center] also," Henrique O. said, "but only by passing out pamphlets. Here they have presentations, various presentations."²⁹⁶

²⁸⁸ "Vários dos meninos apresentam problemas de saúde que são, simplesmente, ignorados. Pode-se afirmar que a maioria deles sofre com as doenças de pele – promovidas pelas próprias condições de encarceramento e pela rara exposição ao sol. Um dos jovens – R.S., 16 anos – relatou a necessidade de intervenção cirúrgica no estômago, já indicada há muito tempo. Há 28 dias, ele aguardava por algum encaminhamento no Ciam sem jamais ter sido examinado por um médico." Comissão de Direitos Humanos, *IV Caravana Nacional de Direitos Humanos*, p. 27.

²⁸⁹ "A situação da saúde dos internos é preocupante. Muitos possuem doenças de pele; outros tantos sofrem com problemas dentários." *Ibid.*, p. 31.

²⁹⁰ Human Rights Watch interview, Santana, Amapá, April 16, 2002.

²⁹¹ Human Rights Watch interview, Porto Velho, Rondônia, April 25, 2002.

²⁹² Comissão de Direitos Humanos, *IV Caravana Nacional de Direitos Humanos*, p. 30.

²⁹³ Human Rights Watch interview, Centro de Internação de Adolescentes Femenino, Ananideua, Pará, April 11, 2002.

²⁹⁴ Human Rights Watch interview, Centro Sócio-Educativo Masculino, Ananideua, Pará, April 12, 2002.

²⁹⁵ Human Rights Watch interview, Macapá, Amapá, April 16, 2002.

²⁹⁶ Human Rights Watch interview, Centro Sócio-Educativo Masculino, Ananideua, Pará, April 12, 2002.

The Right to the Highest Attainable Standard of Health

All individuals have the right to enjoy the highest attainable standard of health, a right that is guaranteed by article 12 of the International Covenant on Economic, Social and Cultural Rights and reaffirmed in the Convention on the Rights of the Child, the Convention on the Elimination of Discrimination against Women, the International Convention on the Elimination of All Forms of Racial Discrimination, and the Protocol of San Salvador.²⁹⁷

The state also has an affirmative obligation to provide for the basic health needs of those who are deprived of their liberty. This obligation flows from the right of individuals deprived of their liberty to be treated with humanity and with respect for the inherent dignity of the human person, a right guaranteed by article 10(1) of the International Covenant on Civil and Political Rights (ICCPR). As the Human Rights Committee has observed, states have “a positive obligation toward persons who are particularly vulnerable because of their status as persons deprived of liberty.”²⁹⁸

The U.N. Rules for the Protection of Juveniles, “intended to establish minimum standards accepted by the United Nations for the protection of juveniles deprived of their liberty in all forms,”²⁹⁹ call for the following measures, among others, to protect the health of children in detention:

- Adequate preventive and remedial medical care, including dental, ophthalmological, and mental health care, provided if possible through health facilities and services in the community in which the facility is located.³⁰⁰
- Examination by a physician immediately upon admission.³⁰¹
- Immediate access to adequate medical facilities and equipment appropriate to the number and needs of youths in detention.³⁰²
- Staff trained in preventive health care and the handling of medical emergencies.³⁰³
- Prompt examination by a doctor of every youth who is ill, complains of illness, or demonstrates symptoms of physical or mental difficulties.³⁰⁴

Children with Mental Illnesses

The U.N. Rules for the Protection of Juveniles call for children who are suffering from mental illness to be “treated in a specialized institution under independent medical management”; detention authorities should take steps to “ensure any necessary continuation of mental health care after release.”³⁰⁵

More fundamentally, children who are in need of care solely because of mental illness should never be held in detention facilities for young offenders. Such treatment is inconsistent with the international principle that children in need of protection should never be held together with those who are accused of or have been found to have infringed the law. It also runs counter to the purpose of the Inter-American Convention on the Elimination

²⁹⁷ See International Covenant on Economic, Social and Cultural Rights, art. 12; Convention on the Rights of the Child, art. 24; CEDAW, arts. 11.1(f) and 12; International Convention on the Elimination of All Forms of Racial Discrimination, *adopted* December 21, 1965, 660 U.N.T.S. 195 (entered into force January 4, 1969, and ratified by Brazil March 27, 1968), art. 5(e)(iv); Protocol of San Salvador, art. 10.

²⁹⁸ Human Rights Committee, General Comment 21, para.3.

²⁹⁹ U.N. Rules for the Protection of Juveniles, art. 3.

³⁰⁰ *Ibid.*, art. 49.

³⁰¹ *Ibid.*, art. 50.

³⁰² *Ibid.*, art. 51.

³⁰³ *Ibid.*

³⁰⁴ *Ibid.*

³⁰⁵ *Ibid.*, art. 53.

of All Forms of Discrimination against Persons with Disabilities, one of whose objectives is to promote the full integration into society of persons with disabilities.³⁰⁶

Information and Education on Health Issues

The right to the enjoyment of the highest attainable standard of health includes the right to information and education concerning prevailing health problems and their prevention and control. States party to the Convention on the Rights of the Child undertake “[t]o ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health”³⁰⁷

The Committee on Economic, Social and Cultural Rights, the body that receives reports on states’ compliance with the International Covenant on Economic, Social and Cultural Rights, interprets the right to health to include the “right to seek, receive and impart information concerning health issues.”³⁰⁸

Information and education on health issues are particularly important components of any comprehensive response to HIV and AIDS. The Committee on the Rights of the Child urges that “[a]ccess to information as a fundamental right of the child should become the key element in HIV/AIDS prevention strategies,” one of a series of recommendations it made after a day of discussion on HIV/AIDS and children in 1998.³⁰⁹ The U.N. Guidelines on HIV/AIDS and Human Rights, which provide guidance in interpreting international legal norms as they relate to HIV and AIDS, recommend that states “ensure that children and adolescents have adequate access to confidential sexual and reproductive health services, including HIV/AIDS information, counseling, testing and prevention measures such as condoms.”³¹⁰

³⁰⁶ See Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities, adopted June 7, 1999, O.A.S.T.S. No. – (entered into force September 14, 2001). Brazil ratified the convention on September 17, 2001.

³⁰⁷ Convention on the Rights of the Child, art. 24(2)(e).

³⁰⁸ U.N. ECOSOC, Committee on Economic, Social and Cultural Rights, 22d sess., agenda item 3, Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights, *General Comment No. 14 (2000): The Right to the Highest Attainable Standard of Health (Article 12 of the International Covenant on Economic, Social and Cultural Rights)*, U.N. Doc. E/C.12/2000/4, CESCR, para. 12(b), in U.N. Secretariat, *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, U.N. Doc. HRI/GEN/1/Rev.5 (April 26, 2001), p. 92.

³⁰⁹ Committee on the Rights of the Child, 19th sess., *General Discussion on Children Living in a World With AIDS*, U.N. Doc. CRC/C/80 (October 5, 1998), in Office of the U.N. High Commissioner for Human Rights, comp., *Committee on the Rights of the Child: Reports of General Discussion Days*, p. 91, para. 234(d).

³¹⁰ Guidelines on HIV/AIDS and Human Rights, Guideline 8(g).

APPENDIX

DETENTION CENTERS VISITED FOR THIS REPORT

Casa da Adolescente, Rondônia

The Casa da Adolescente is the girls' detention center in the state of Rondônia. It housed five girls at the time of Human Rights Watch's visit. The center does not provide schooling to girls in detention. When we asked if any of the girls in the center was attending classes in the community, a staff member replied, "No. That's only if the judge determines that we can integrate the girl into a [community] school."³¹¹ There were no recreational activities on the day of our visit, and there appeared to be no space inside or outside the center that could be used for such activities. Girls in the center were locked in their rooms throughout our visit, with little to do other than sleep or stare out the window. Staff members identified one of the girls in the center as mentally impaired. Staff told Human Rights Watch that this girl was not a detainee; instead, in violation of international standards, she was living in the facility because she had no other place to go.³¹²

Casa do Adolescente, Rondônia

This facility, the boys' detention center for the state of Rondônia, held twenty-five youths in two small dormitories and two punishment cells. A new wing under construction will increase the facility's capacity once it is completed. But the staff's practice of setting aside one of the two dormitories for a privileged group of four or five youths meant that at the time of our visit, most youths were confined together in exceptionally close quarters. Boys in the two punishment cells were housed in particularly squalid conditions. Many of those we interviewed told us that they were not receiving an education. Detention center officials claimed that youths spent at least two hours outside of their cells each day, but we spoke with boys who told us that they had been locked in their cells for several days at a time. When we inspected the center's recreational facilities, officials told us that youths played ball outside every afternoon, pointing to a gravel lot littered with construction materials.

Centro Educacional Açucena, Amapá

Açucena is a nonresidential facility that supervises youths sentenced to probation (*liberdade assistida*). In contrast to youths in detention or held in "semiliberty," children on probation remain in their homes. They meet with social workers from the center and may attend programs at the center. A total of forty-two children—thirty boys and twelve girls—were serving sentences of probation under the center's supervision at the time of our visit.³¹³

Centro Educacional Aninga, Amapá

The Centro Educacional Aninga (Aninga Educational Center) is the detention center for children and youths, both girls and boys, between the ages of twelve and twenty-one in the state of Amapá. In marked contrast to the other detention centers Human Rights Watch visited, the classrooms in Aninga were clean and bright, with educational posters and bulletin boards decorating the walls. At the time of Human Rights Watch's visit to Amapá in April 2002, the center was briefly closed for repairs after portions of one of its walls collapsed during heavy rains, but Human Rights Watch was able to interview youths from the facility, temporarily housed in police lockups and in the pretrial detention center during this time. Girls noted that they were allowed to spend less time in the common areas than the boys, presumably because of the need to separate boys and girls. Boys "had more attention and more freedom," one girl told Human Rights Watch.³¹⁴

Centro de Internação de Adolescentes Feminino (CIAF), Pará

The girls' detention center in the state of Pará held eight girls at the time of Human Rights Watch's visit in April 2002. Two were completing sentences of "semiliberty"; six were in pretrial detention. Detention center staff told

³¹¹ Human Rights Watch interview, staff, Casa da Adolescente, Porto Velho, Rondônia, April 25, 2002.

³¹² See Chapter VIII, "Children with Mental Illnesses" section.

³¹³ Human Rights Watch interview, staff, Centro Educacional Açucena, Santana, Amapá, April 16, 2002. See also Governo do Estado do Amapá, Fundação da Criança e do Adolescente, *Política de Ação* (Macapá, Amapá: FCRIA, 2001), pp. 59-66.

³¹⁴ Human Rights Watch interview with Patrícia D., Santana, Amapá, April 16, 2002.

us that the two girls held in “semiliberty” attended school and spent weekends with their families, but Human Rights Watch heard frequent complaints that girls held in pretrial detention in CIAF had little to do.

Centro de Internação Espaço Recomeço (EREC), Pará

The Espaço Recomeço detention center is the largest boys’ detention center in the state of Pará. On the day of our first visit, it held thirty-eight boys between the ages of fifteen and twenty. The detention center held youths in three cellblocks, usually with two to four detainees in each cell, although one block had single cells. In two of the cellblocks, cells were arranged in rows along corridors, with barred windows along the corridors allowing some access to light and fresh air. Cells in the third block faced an open courtyard. There was one punishment cell in the administration block, which held six youth on the day of our first visit. Youths were also held in single or double punishment cells in the annex, a wing of the adjacent pretrial detention center. Cells in the annex were arranged in a row along an open-air corridor. The center had two classrooms. One was empty; the other had a small number of chairs and a bookcase with a dusty pile of haphazardly stacked instructional materials. There was a volleyball court on the grounds, and we observed youths using it during each of our two unannounced visits to the center.

Centro de Internação de Adolescentes Masculino (CIAM), Pará

The boys’ pretrial detention center held twenty youths on the day of Human Rights Watch’s visit. The regular cells held between one and three youths, each of whom slept on a thin mattress placed on a concrete bed. The cells are arranged in rows along open-air corridors, allowing some ventilation and access to light. We observed newspapers, books, games, and other personal possessions in many of the cells, which were generally clean. The protective custody cell was a notable exception. In that cell, a mattress lay on the floor lit by a bare lightbulb dangling from exposed wires against a dingy wall scarred with graffiti. There was a concrete basketball court at the back of the center, although we did not observe youths using it on the day of our visit.

Centro de Internação Provisória, Amapá

The Centro de Internação Provisória, the pretrial detention center for the state of Amapá, is located behind a specialized police station for youthful offenders. The boys’ cells are fronted with metal bars and arranged along a dark, dirty row with windows at either end, their only access to natural light. Girls were housed in a separate part of the facility in one of two large dormitories. The detention center held six girls and twenty boys on the date of Human Rights Watch’s visit. Most children spent no more than forty-five days in pretrial detention, as required by Brazil’s Statute of the Child and the Adolescent. Nevertheless, we heard of some cases in which the judge ordered the period of pretrial detention extended for another forty-five days, in violation of Brazilian law.³¹⁵

Centro de Internação Provisória, Maranhão

This facility, the boys’ pretrial detention center, held fifteen youths on the day of Human Rights Watch’s visit. Formerly used as the facility for Esperança Youth Center, the center houses youths in cells that open onto a dimly lit corridor. A state official acknowledged that the infrastructure was in poor repair and unsuitable for children, saying, “It’s a question of resources.” She told us that the state was hoping to build a new facility similar to the layout of the Esperança Youth Center.³¹⁶

Centro Juvenil Masculino (CJM), Pará

The newest of Pará’s five juvenile detention centers, this facility held eleven boys between the ages of fourteen and nineteen on the day of Human Rights Watch’s visit. Youths shared double rooms that were arranged around a central open courtyard holding a table tennis table. The rooms themselves were furnished with beds and dressers, and each room had its own bathroom. The small number of youths, the cleanliness of the facility, and its physical layout were all positive features of this center.

³¹⁵ See Chapter III, “Statute of the Child and Adolescent” section.

³¹⁶ Human Rights Watch interview, Centro de Internação Provisória, São Luís, Maranhão, April 19, 2002.

Centro Semiliberdade, Amapá

Amapá's Centro Semiliberdade held twenty-eight boys between the ages of fifteen and twenty. (Youths may be held in juvenile detention facilities in Brazil up to the age of twenty-one.) The center's staff reported that the majority were nineteen or twenty years of age and usually came to the center after initially serving six months in the Aninga detention center. Youths sentenced to "semilibrty" sleep in the center but are allowed to leave the facility during the day; the majority worked outside the center for four hours each day. They are also allowed to spend weekends with their families.³¹⁷

Centro Sócio-Educativo Assistente Social Dagmar Feitoza, Amazonas

Formerly known as the Complexo de Atendimento ao Adolescente Infrator, this center is one of two facilities for boys who have been sentenced to periods of detention. It was designed for seventy youths and had a population of sixty-five on the day of Human Rights Watch's visit. Youths are held in three cellblocks, each with cells arranged along a closed corridor. One of the cellblocks, Unit Zero, is used for incoming youths; staff told us that youths spent fifteen days in this block before being assigned to one of the other cellblocks on the basis of their crime, age, and physical development. The center's staff was particularly proud of its numerous vocational activities, which included furniture making, basket weaving, and a bakery.

Centro Sócio-Educativo Marise Mendes, Amazonas

The Marise Mendes detention center held twenty-four girls at the time of Human Rights Watch's visit in April 2002. With only two dormitories, the facility housed girls in crowded conditions that frequently led to conflicts. In response, the staff often resorted to placing girls in one of several windowless punishment cells when they could not get along with others in the dormitories. The center had a classroom, which was in use during our visit, but it had no outdoor recreation areas. "The infrastructure, the way it is, makes it difficult for us to do our work," the center's director told Human Rights Watch.³¹⁸

Centro Sócio-Educativo Masculino (CESEM), Pará

As with the Centro Juvenil Masculino, this facility held youths in rooms furnished with beds and dressers. It held eleven boys between the ages of fourteen and eighteen on the day of our visit. Most of the youths had spent time in the Espaço Recomeço detention center before transferring to CESEM. This facility had the most liberal visitation policies of the five detention centers in Pará, allowing most youths to spend every other weekend with their families. In addition, family members may visit youths in the facility for up to four hours every Saturday and Sunday.

Centro Sócio-Educativo Senador Raimundo Parente, Amazonas

Designed to hold forty youths, this center had a population of thirty on the day of Human Rights Watch's visit. The center houses boys between the ages of twelve and sixteen; older boys are held in the Dagmar Feitoza detention center. Detention center officials told us that the facility had been substantially renovated in response to criticism from Amnesty International;³¹⁹ a bulletin board in the administrative offices documented the renovation. The center had no education at the time of our visit, although officials told us that they expected to begin classes shortly. "What we most need here is schooling," Orlando S. told Human Rights Watch.³²⁰

Esperança Youth Center (Centro de Juventude Esperança), Maranhão

This center held fifty-two boys on the day of Human Rights Watch's visit. Constructed less than two years ago, the center was generally clean and in good repair. Cells in two of the three wings were arranged in an L-shape to

³¹⁷ Human Rights Watch interview with staff, Casa de Semiliberdade, Macapá, Amapá, April 15, 2002. See also Governo do Estado do Amapá, Fundação da Criança e do Adolescente, *Política de Ação*, pp. 67-75.

³¹⁸ Human Rights Watch interview with Francisca Auziva Ataidi Elgaly, director, Centro Sócio-Educativo Marise Mendes, Manaus, Amazonas, April 22, 2002.

³¹⁹ See, for example, Amnesty International, *Brazil: A Waste of Lives: FEBEM Juvenile Detention Centers, São Paulo—A Human Rights Crisis, Not a Public Security Issue* (London: Amnesty International, 2000), pp. 3-4 (recounting the findings of a visit to the Raimundo Parente detention center).

³²⁰ Human Rights Watch interview, Centro Sócio-Educativo Senador Raimundo Parente, Manaus, Amazonas, April 23, 2002.

face open courtyards, allowing youths in those cells ample access to light and ventilation. The third set of cells was also laid out in an L-shape, but the layout of the cells was reversed so that the doors of each cell opened onto a corridor with limited lighting and ventilation. Detention center officials told us that they did not know why the third wing was built differently from the other two. The center used the third wing to house youths who had entered the facility most recently.

Unidade de Internação Provisório, Amazonas

Amazonas's pretrial detention unit held five boys on the day of our visit. It offered no classes for the youths, who spent up to forty-five days in pretrial detention. The most common complaint from youths here and in other detention centers in the state did not relate to conditions in this facility: Nearly every boy and girl we spoke with in the state of Amazonas told us that he or she had been hit by police officers while in a local police station awaiting transfer to the pretrial detention unit. "They beat you to make you talk," Maurício B. said of the police.³²¹

³²¹ Human Rights Watch interviews, Unidade de Internação Provisória, Manaus, Amazonas, April 23, 2002.

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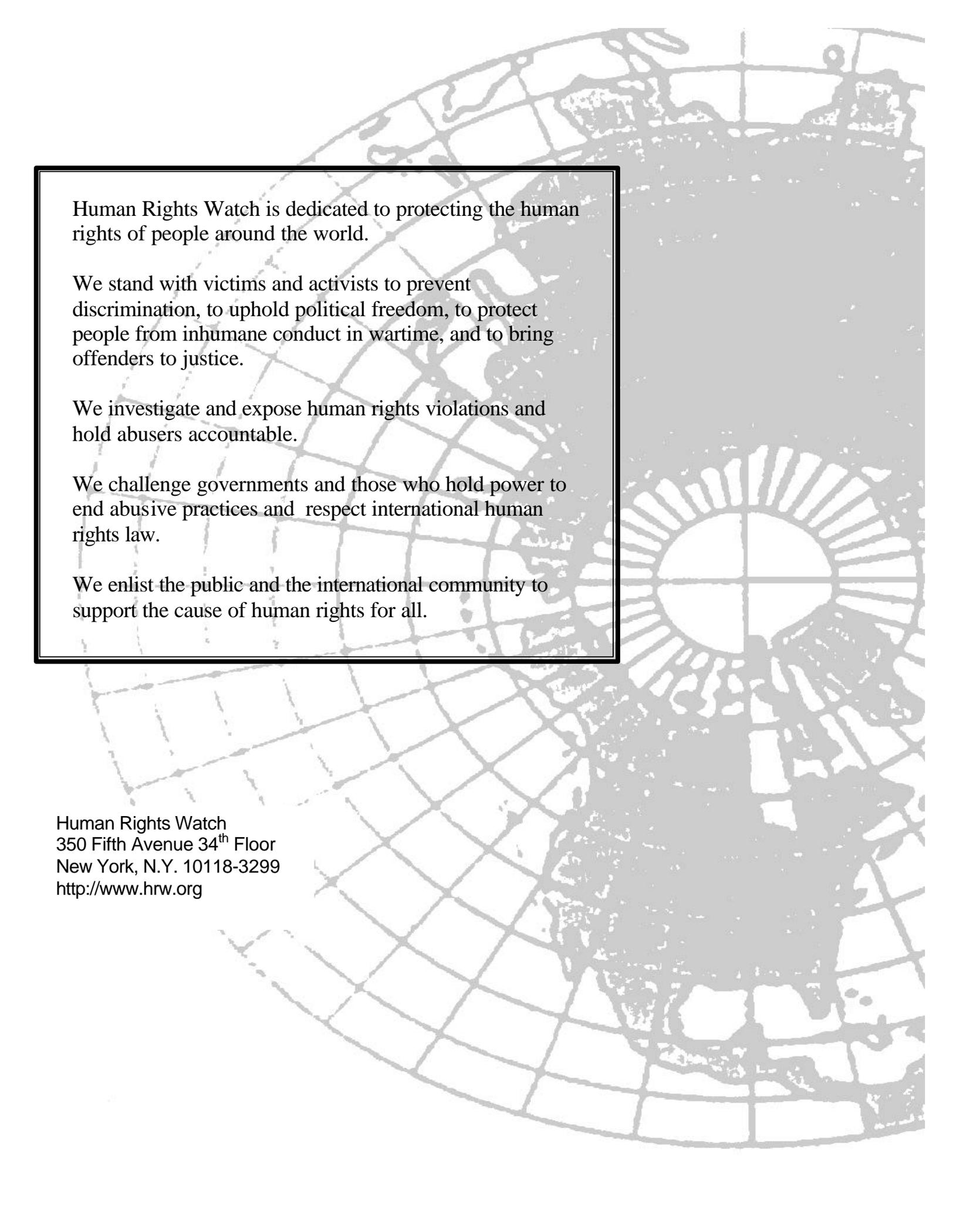
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