

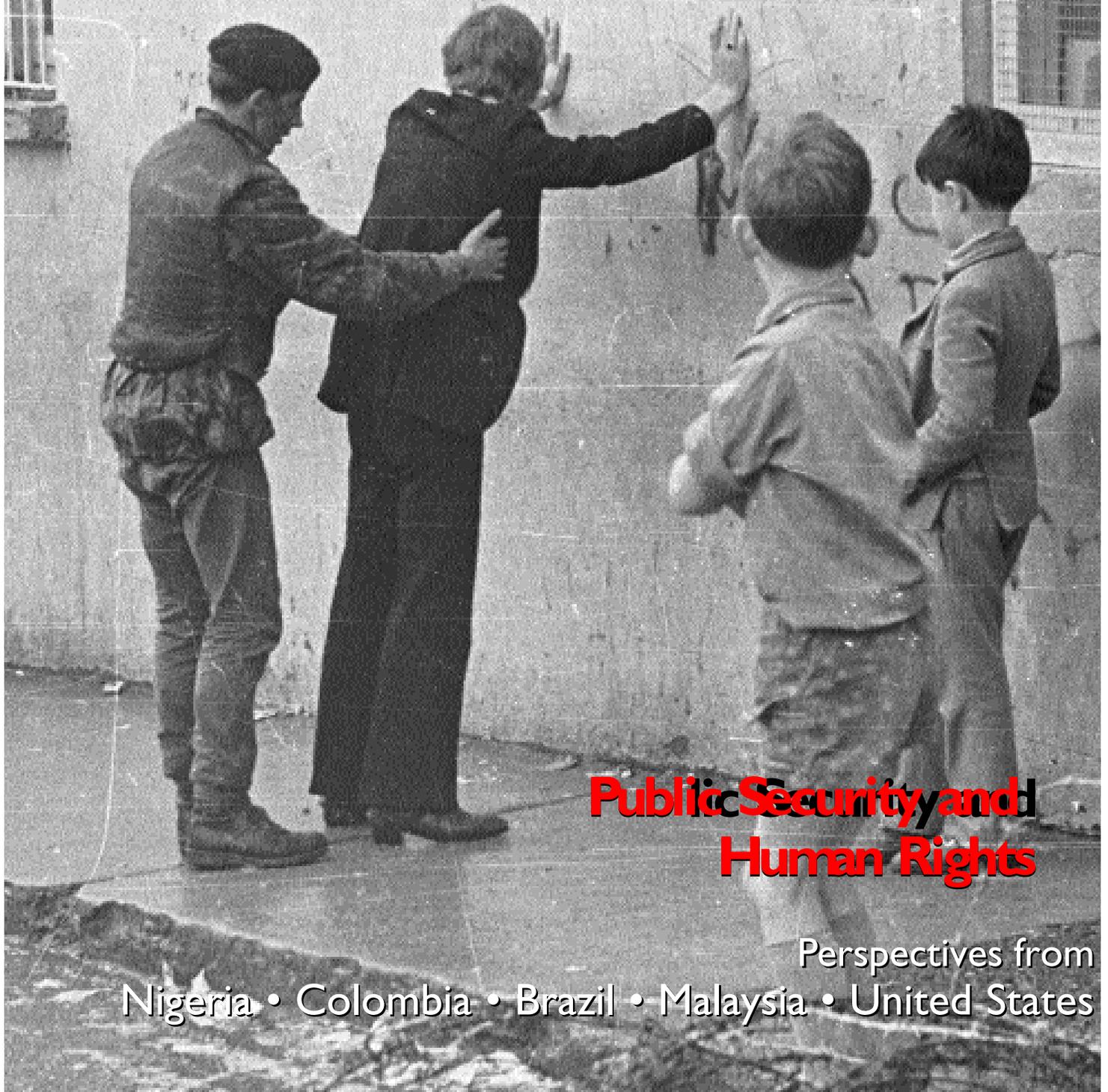
human rights

an international forum for debating human rights


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ON ETHICS AND
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dialogue

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Public Security and Human Rights

Perspectives from
Nigeria • Colombia • Brazil • Malaysia • United States

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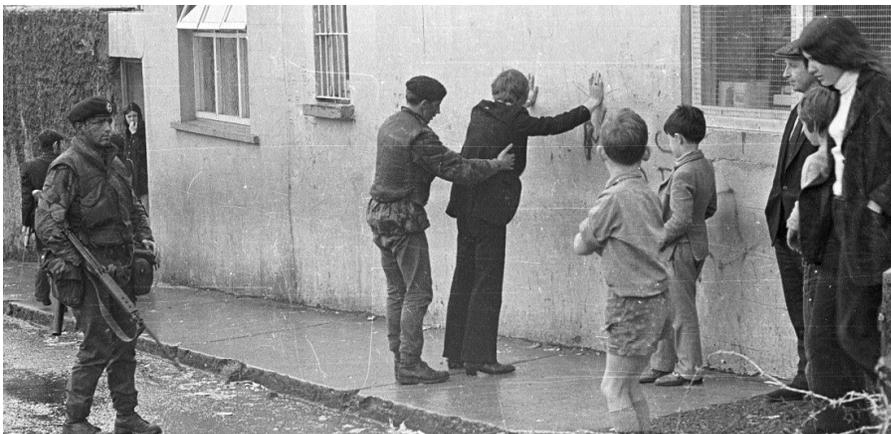
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Photo by Eamon Melaugh



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Cover Photo:

A member of the public is stopped and searched on the streets of Derry.

Carlos Basombrio is a sociologist and vice minister of the Peruvian Ministry of the Interior. Until September 2001 he was director of the Institute for Legal Defense, a leading Lima-based human rights organization. www.idl.org.pe

Andressa Caldas, **Sandra Carvalho**, and **James Cavallaro** all work for the Global Justice Center, a human rights



advocacy and training organization based in Rio de Janeiro. Caldas, the center's legal coordinator, has taught civil law and legal theory at the Catholic University of Paraná and participates actively in the National Network of Grassroots Lawyers. Carvalho is the center's research and communications director. From 1997 to 2000 she served as executive secretary to the Commission on Human Rights of the São Paulo Legislative Assembly.



Cavallaro is founder and director of the Global Justice Center and currently splits his time between Rio and Cambridge, Massachusetts, where he is associate director of the Human Rights Program at Harvard University Law School. www.global.org.br

Innocent Chukwuma is founder and executive director of the Centre for Law



Enforcement Education in Lagos. In addition to his criminal justice work, he is one of the founders of United Action for Democracy, Nigeria's chief pro-democracy political party. www.cleen.kabissa.org



Janie Fellner is director of the U.S. Program of Human Rights Watch, which addresses a wide range of human rights abuses in the United States.

Since September 11 U.S. government antiterrorist policies have been a program priority. www.hrw.org

Kit Gage directs the National Committee against Repressive Legislation and the First Amendment Foundation in Washington, D.C. She is also president and co-founder of the National Coalition to Protect Political Freedom. www.indefenseoffreedom.org

Adam Isacson has worked at the Center for International Policy, an independent research and advocacy organization in Washington, D.C., since 1995. He coordinates a program that monitors security and U.S. military assistance to Latin America and the Caribbean, focusing primarily on Colombia. Since 1998 his work has sent him to Colombia seventeen times. www.ciponline.org

Fiona Macaulay is lecturer in political sociology at the Institute of Latin American Studies, University of London, and research fellow at the Centre for Brazilian Studies, University of Oxford. She is currently completing a research project entitled "Political and Institutional Challenges of Reforming the Brazilian Criminal Justice System." She was head of the Brazil desk at the International Secretariat of Amnesty International from 1997 to 2000.

Eisa Massimino is director of the Washington office of the Lawyers



Committee for Human Rights, where she serves as the point of contact with U.S. government leaders, international diplomats, and human rights opinion leaders and decision-makers. Massimino is the organization's chief advocacy strategist, a national authority on refugee law and policy, and an expert on a range of international human rights issues. www.lchr.org

Rabbi Jeremy Milgrom is co-founder and co-director of Clergy for Peace, an



Israeli/Palestinian interfaith initiative of Christians, Muslims, and Jews working for justice and peace in the Middle East. Rabbi Milgrom completed three years of active duty and sixteen years of reserve duty in the Israeli Army, the last eight of which were spent as a conscientious objector. He works with Rabbis for Human Rights on behalf of the Jahalin Bedouin. www.rhr.israel.net

Rachel Neild is senior associate at the Washington Office on Latin America (WOLA). She also directs WOLA's Civil Society and Citizen Security Project, which supports research and civil society capacity-building in Central America on issues of public security reforms. Neild writes extensively on public security reforms and human rights, and, in particular, on police reform in Haiti. www.wola.org



Paulo Sérgio Pinheiro is secretary of state for human rights in Brazil. He has



also been professor of political science at the University of São Paulo since 1985. Through the university, he and Sérgio Adorno founded the Center for the Study of Violence in 1987. www.nev.usp.br

Karim Raslan is a Kuala Lumpur-based lawyer and author. His weekly syndicated column is published by the *Star*



(Malaysia), *Business Times* (Singapore), and *Sin Chew Daily* (Malaysia). Karim also writes articles on an ad hoc basis for *Sydney Morning Herald*, the *Nation*, and *Philippine Daily Inquirer*. He maintains a home in Ubud, Bali.

Bridging Activism and Policymaking

An Interview with Paulo Sérgio Pinheiro

The indirect election of Tancredo Neves that marked the advent of democracy in Brazil in 1985 may have ended twenty-one years of military dictatorship, but it did not bring an end to state-sponsored violence. In its responses to common crime, conflicts over land, and other threats to public security, the government has used strong-arm tactics that are brutal—and sometimes even fatal. These are human rights violations that differ from those of the military period and have forced Brazilian human rights organizations to find new ways of conceptualizing rights, developing appropriate strategies for their protection, and engaging effectively with state agencies.

To its credit, the federal government has recently begun to build mechanisms of accountability for human rights abuses. But in many instances, rather than safeguarding the rule of law, the state has contributed to its subversion through the support of torture, summary execution, vigilantism, death squads, and justiceiros (gunmen who kill criminal suspects and “undesirables” like street children). Compared

with other democratic countries—excluding those experiencing internal warfare—Brazil has the highest rate of lethal police violence.

The Center for the Study of Violence (NEV) at the University of São Paulo has been at the forefront of efforts to place Brazil’s violence problem within a human rights framework. The first academic program linking human rights research and activism, the center was founded in 1987 with a focus on the concrete problems facing Brazil’s new democracy: the absence of the rule of law; the inaccessibility of the justice system for nonelites; institutionalized racism and discrimination; and the lack of accountability for government officials complicit in human rights abuses and other crimes.

Human Rights Dialogue talked with NEV’s founder, Paulo Sérgio Pinheiro, who was recently appointed secretary of state for human rights in the government of outgoing-President Fernando Henrique Cardoso, to discuss his organization’s work. *Dialogue* then asked Brazil watchers what they think.

Dialogue: What are NEV’s greatest achievements?

Pinheiro: What is unusual about NEV is our ability to solve the tension between scholarship and commitment. In a country like Brazil that has so many social problems, the academic community must be committed to engaging with empirical realities. As violence has become a more important part of the political agenda, NEV’s research has become more complex.

Initially, NEV’s most significant impact was within Brazilian academia itself, where, previously, neither violence nor human rights had been important fields of social science inquiry. NEV addresses that gap by recruiting and training young researchers, offering them fellowships and integrat-

ing them into different research programs in a way that encourages the merging of research and human rights activism. One of the first examples of this is NEV’s work on police killings. Through rigorous research, we raised awareness of the systematic killing of criminal suspects and the accountability of the state. Our approach helped to build a solid network of next-generation researchers sensitized to human rights concerns. More recently, the center has expanded its research to examine ways of improving access to institutions of justice and eliminating violence against children.

Dialogue: What about NEV’s cooperation with the government? Do you consider this another sign of success?

Pinheiro: Yes. Because of NEV's prestige as an academic center and its influence within civil society, the Brazilian government asked us to facilitate the cooperation of academics and activists in preparing a draft document for a National Human Rights Plan of Action in September 1995. We enthusiastically accepted this offer. Most of NEV's proposals were implemented into the plan, which was enacted in 1996.

The plan made Brazil one of the first countries to adopt Human Rights Plans of Action, a provision (article 71) of the 1993 Vienna Declaration. It contained a mechanism for civil society input, so when President Cardoso ordered phase two of the plan, he again asked NEV to coordinate the input of NGOs throughout Brazil.

Dialogue: *Yet I suspect that your relationship with the government is also controversial.*

Pinheiro: We would never collaborate with a dictatorship, but since the transition to democracy there has been no reason in principle not to collaborate with the government. We are able to maintain our credibility with other groups because we have always kept our autonomy.

You see, working with the government does not stop us from collaborating with activist organizations. NEV maintains a collaborative relationship with Comissão Teotônio Vilela Direitos Humanos (CTV), a human rights organization founded in 1983 by Senator Severo Gomes—an extraordinary humanist and defender of the rights of the Yanomami people. After a series of police killings, we joined with CTV as co-authors of the first complaint against the Brazilian state to the Inter-American Commission on Human Rights. In the report, we denounced the massacre at the Carandiru Prison, where 111 inmates were killed by the police in 1992. We were criticizing the state at the same time that we were preparing the plan in cooperation with the state.

Dialogue: *How has NEV been able to walk this line where others have failed?*

Pinheiro: The center has successfully gone beyond shaming as the sole strategy for changing state human rights practices. We learned to work with state agencies and institutions to propose alternative policies and strategies for the protection and promotion of human rights while refusing to stop denouncing the government and the dominant class when they violate those rights.

Dialogue: *What setbacks has NEV faced?*

Pinheiro: We have not been very successful in monitoring the National Human Rights Plan of Action even though we conducted nine regional seminars for the evaluation of the first plan. We have also failed so far to bring about much-needed constitutional reform of our criminal justice institutions and to make the federal government accountable for gross human rights violations. The primary mission of the center today is to determine how to establish more democratic state practices and accountability for state actions while simultaneously abiding by international policing standards and controlling violence in the population.

Dialogue: *What do you see as the means to turn these institutions around to make them accountable?*

Pinheiro: We need an authentic human rights commission. We currently have the National Council for the Protection of the Rights of the Person, which was

The center has successfully gone beyond shaming as the sole strategy for changing human rights practices.

established 1964. In my new post as secretary of state for human rights, I have created special commissions on torture and slave labor. But these institutions are no substitute for a truly autonomous national commission for human rights that can serve as ombudsman.

Dialogue: *Where does the public stand today on these issues?*

Pinheiro: According to a 1999 survey that the NEV carried out in ten major cities throughout the country, Brazilians prefer the law to vigilante justice and the majority oppose torture and police brutality. The majority also accept the legitimacy of strikes and peaceful social protest. These results suggest that, despite the authoritarian legacies inherited from our past, there is a democratic sensibility within the population. Even more surprisingly, 58 percent of those surveyed were aware of the National Human Rights Plan of Action, and most understood that its goal was to protect the rights of the people. In the midst of the profound inequality and endemic violence that continue to plague our country, these are hopeful signs. **hrd**

NEV is No Longer Alone Fiona Macaulay Responds

ONE OF THE CHALLENGES for human rights groups faced with a context of rising crime and violence is to determine the boundaries of their various activities. The Center for the Study of Violence (NEV) at the University of São Paulo has had to negotiate its own multiple—and potentially conflicting—roles since its inception in 1987. On the one hand, it is an impartial university research institution dedicated to producing high-quality data and analyses. On the other, it also shelters a human rights NGO, the Teotônio Vilela Commission (CTV), composed of eminent members of the São Paulo community, which has periodically mobilized to investigate, bear witness to, and make formal complaints to the authorities about egregious cases of institutional violence. NEV's third role has been that of consultant to the government, assisting it with the writing and monitoring of the national human rights program and with the drafting of periodic implementation reports pursuant to a number of United Nations Conventions.

NEV has taken on all of these roles at different moments out of practical necessity: for many years, it was the only university institution researching in this area. The connection with the prestigious University of São Paulo gave it and CTV credibility and protection from attack by the outgoing military regime during the 1980s.

The weakness of the federal government's own capacity in the area of justice meant that NEV could provide crucial intellectual resources as well as credible interface with organized civil society. Combining these roles has probably never been easy or comfortable.

Paulo Sérgio Pinheiro is right to point to an increased consensus on both the positive value of human rights and the need to reform the institutions that deal with crime and violence. But the federal government has not put institutional reform of police and courts high enough on the political agenda, a situation that even Pinheiro operating from within government has been unable to alter. And because of two deficits Brazil's well-organized and

networked human rights organizations have not been able to contribute concrete proposals to reform. First, Latin American academe has no tradition of criminology, by which I mean an interdisciplinary approach to understanding crime, social disorder, and the institutions of the criminal justice system. This has ensured that the formalistic and legalistic vision of jurists has dominated all debate on rights, crime, and punishment. Second, the federal government does not have adequate research, policy, and planning capacity within a specialized unit—which requires appropriately trained personnel.

But this is changing. A number of criminology institutes have been set up in major Brazilian universities in the past few years that have staff and intellectual output to rival NEV's. This expansion is very welcome given that NEV, with the best will in the world, could not on its own produce the volume and variety of analyses of contemporary criminal justice institutions and criminality required to feed effectively into government policy. The new criminology departments will begin to supply highly competent graduates just as economics departments produced the country's technocrats in the past.

NEV is no longer alone. Indeed its efforts have partly stimulated the plethora of new initiatives and players. Over the last seventeen years human rights groups have proliferated both outside of and within the

The complex mosaic of human rights actors fortifies the case for groups to specialize, rather than diversify, their functions.

government, with a presence of human rights committees in the national congress, state and municipal legislatures, and the judiciary. Both the federal and the twenty-seven state-level governments are increasingly persuaded of the need for institutional reform to strengthen the protection of human rights and tackle crime effectively. With such a perceptible expansion on the "demand side," the "supply side" will need to rethink how it might best meet this demand. The complex mosaic of actors in human rights and crime policy tends, to my mind, to fortify the case for human rights groups to specialize, rather than diversify, their functions, while also maintaining coalitions to maximize efforts on key issues. [hrd](#)

Cardoso's Record is Poor

Andressa Caldas, Sandra Carvalho, and James Cavallaro Respond

PAULO SÉRGIO PINHEIRO paints a rather bright picture of the progress on human rights in Brazil. And, by this account, Pinheiro himself deserves much of the credit. His vast experience as a scholar and human rights activist won him a receptive audience in Brazilian civil society. Indeed, well before joining the National Human Rights Secretariat, for many years Pinheiro advised the Cardoso government as head of the Center for the Study of Violence, helping to draft official responses to the UN's conventional committees—the expert bodies that oversee compliance with human rights treaties—and pressing the government to adopt a more transparent human rights policy.

It is true that in its eight years the Cardoso government emphasized transparency and dialogue in its relations with the human rights movement at home and abroad: a key advance. But Cardoso's record on implementing the reforms necessary to improve the human rights situation in the country is poor. One of the prime indicators is the level of police violence. While Cardoso was in office, there was little or no decline in the number of arbitrary arrests and the number of civilians killed by police. From May to September this year, official figures demonstrate that police in Rio de Janeiro killed an average of just over 55 people per month, more than three times the 16 killed per month registered in early 1995, the first year of Cardoso's administration. Figures for São Paulo demonstrate a decrease and leveling off in police killings in the mid-1990s, but then a gradual increase over the past two to three years.

Also under the Cardoso government, there was a practice of targeted killings to silence opposition in rural areas. While the killers were not usually state agents, the government's record on investigating and prosecuting these cases is dismal. More worrisome still was the Cardoso government's approach to land disputes. Rather than address these conflicts as social problems that require policy solutions, the Cardoso government focused on repressive use of police to quash landless people's demonstrations and land occupations. In 2000 the federal police went so far as to

revive a national security law passed during the dictatorship to hold and charge rural leaders involved in land disputes.

The Cardoso government also failed to implement its own human rights plan. Brazilian and international civil society embraced the National Human Rights Plan of Action (PNDH) with open arms when it was published in 1996. The plan, however, turned out to be empty words.

Global Justice's forthcoming annual report for 2002 shows that the overwhelming majority of the plan's proposals—even those classified as “short term”—have yet to be enacted more than six years after the PNDH's release. The few measures that have been implemented have all been responses to high-profile

cases: for example, the April 1997 Torture Act came on the heels of a national scandal provoked by widely viewed amateur videos of police torture in Diadema, São Paulo state. At the same time, critical measures such as the unification of the police, the federalization of human rights crimes, and thorough external control of the police have yet to be adopted.

As Pinheiro notes, in May 2002 the feder-

al government issued a second edition of the PNDH to mark the sixth anniversary of the first plan's release. This second plan focuses on economic, social, and cultural rights. While it is an important symbolic gesture to recognize the indivisible nature of civil, political and economic, social, and cultural rights, the second plan, much like the first, contains no timetables and no allocated resources that a government plan must have to be taken seriously. Like the first plan, it may well have been intended more to address the public perception of government inaction on human rights than to take tough measures to deal with difficult problems.

There can be little doubt that Brazil continues to be plagued by serious rights abuses. Official recognition of the gravity of these problems is probably the greatest single human rights achievement of the outgoing Cardoso administration. But that is far from enough. [hrd](#)



A view from within Rocinha Favela in Rio de Janeiro

Photo by Christian Barry