

Submission by: Front Line; The International Foundation for the Protection of Human Rights Defenders (Front Line has Special Consultative Status with the Economic and Social Council of the United Nations)

Related to: Brazil

UPR Session: 1st session of UPR, April 2008

Submitted: 19 November 2007

Introduction

The following submission has been prepared based on information received from independent human rights defenders (HRDs) in Brazil. Front Line is an international NGO based in Ireland with Special Consultative Status with the Economic and Social Council of the United Nations. We have particular expertise on the issue of the security and protection of human rights defenders and we work to promote the implementation of the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (UN Declaration on Human Rights Defenders) adopted by General Assembly resolution 53/144 of 9 December 1998.

Front Line is deeply concerned about the ongoing acts of repression against human rights defenders in Brazil. In virtually every context in which human rights defenders operate, whether in relation to the fight against impunity, the protection of civil and political, economic and social rights and the defence of indigenous populations, they face ongoing harassment including threats, physical attacks, arbitrary arrests and lawsuits, disappearances and killings. The characterisation of HRDs as 'enemies of the state' has increased the risks for many, particularly those working to protect the rights of landless workers, environmental activists, and those seeking to expose human rights violations committed by the authorities.

Linked to this pattern of violence are new actors on the violent arena of criminalisation and arbitrary use of judicial procedures against human rights defenders and social movements: transnational companies, powerful economic groups (national and international) involved in the development of large projects, such as dams and mines, infrastructure projects and agribusiness.

Legal protection of human rights defenders

Despite the fact that Brazil has ratified the key global and regional instruments for the protection of human rights, and has even included and recognised the various guidelines

for the protection of human rights in its 1998 Federal Constitution, there is in fact a huge disparity between the norms and their actual application on the ground. Apart from the continued existence of severe human rights abuses, international human rights norms incorporated into Brazilian law have rarely been applied by Brazilian courts or cited by legislators and representatives of the executive branch in drafting bills. At the national level, Brazilian organisations have increasingly used the Inter-American Human Rights System when defenders are threatened or attacked.

Despite limited State protection, human rights organizations have been instrumental in developing potential measures to protect human rights defenders in the country. In August 2004, the Third Consultation on Human Rights Defenders, organized by Latin American human rights groups, was held in Brazil. The formation of the Brazilian Committee on Human Rights Defenders (*Comitê Brasileiro de Defensoras e Defensores de Direitos Humanos*) in 2004 contributed to raising the profile of the issue in both civil society and governmental arenas.

In 2004 a working group to develop guidelines for the construction of a permanent public policy for the protection of human rights defenders in Brazil, was established by Nilmário Miranda, then Special Secretary for Human Rights (SEDH). As a result of the working group a **National Program for the Protection of Human Rights Defenders** was launched on 26 October 2004. Whilst civil society groups expressed considerable urgency to implement the Program, they also stressed the need to establish a framework that would make the guidelines feasible. The Program remained on paper for some time without implementation and was re-launched in 2005 following pressure from civil society groups. Despite two official launches, there still remains confusion today on the part of the office of the Special Secretary for Human Rights (SEDH) as to the formulation and monitoring of policies and the SEDH's role as executor of the Program. The SEDH continues to insist on the idea that the Program is the responsibility of the states where it is implemented.

Repression against defenders working for the landless and indigenous population

Land distribution in Brazil has historically been among the most unequal in Latin America. This inequality has been the root cause of a series of movements seeking to restructure land tenure in Brazil, as well as the powerful reactions to these demands on the part of landowners. In this context, those who work to defend the rights of rural labourers or to advance the cause of land reform often place themselves at great risk. Killings and threats in recent years have been more targeted, singling out rural labour rights leaders and human rights defenders for intimidation, threats and physical attacks often carried out by "clandestine" security firms.

HRDs not only receive direct threats from large landowners and powerful economic groups but have also been accused by the public at large, of obstructing the government's policy in support of a market economy. Their vulnerability is made even worse by the ineffectiveness of State institutions in rural areas and the weakness of the judicial system, which often rules in favour of those holding political and economic power. In recent years, organized social movements, in particular the *Movimento dos Trabalhadores Rurais Sem Terra*- MST (the Landless Workers' Movement) have pressured authorities to accelerate land reform measures. Those who oppose the MST and its demands have sought to undermine the defence of land reform and rural justice by characterizing the MST and its supporters as violent radicals.

On 21 October 2007, **Valmir Mota de Oliveira**, a member of the *Movimento dos Trabalhadores Rurais Sem Terra* - MST (Landless Workers' Movement) and of *Via Campesina*, the international peasant movement, was shot dead during a peaceful occupation by *Via Campesina*, at the multinational company *Syngenta's* Genetically Modified Organism (GMO) maize and soy test site, in Santa Teresa do Oeste, Paraná State, southwestern Brazil. The attack was orchestrated by approximately forty armed men who entered the encampment and allegedly began to open fire on the 150 agricultural workers gathered there. Valmir Mota de Oliveira was shot twice in the chest at point-blank range and subsequently died from his injuries. He had been subjected to threats during the six months prior to his death. Six other people were seriously wounded in the attack, including human rights defenders **Gentil Couto Viera, Jonas Gomes de Queiroz, Domingos Barretos, Izabel Nascimento de Souza, and Hudson Cardin**. The gunmen pursued Celso Barbosa and Célia Aparecida Lourenço, both leaders of the MST, but they succeeded in evading capture. It is reported that the armed men are members of a militia, and may be linked to the Rural Society of the Western Region (SRO) and the Movement of Rural Producers (MPR), both involved in the agricultural sector. The employment of armed militias in Western Paraná was discussed on 18 October 2007 at a hearing of the Commission for Human and Minority Rights of the Federal Chamber of Congressional Representatives (CDHM), in Curitiba, Paraná and an investigation into their activities has been launched. MST and *Via Campesina* seek agrarian reform and are two of the largest social movements in Latin America

Those who defend the rights of indigenous peoples, and in particular, their right to have their traditional lands demarcated according to federal constitutional law, also encounter violent resistance from large landholders and others with competing interests in the resources on traditional lands. As with the landless movement it is not uncommon for indigenous rights defenders to face death threats and physical violence, including attempts on their lives. Opponents of indigenous and environmental rights also employ similar tactics to those applied to landless defenders as a means of undermining the promotion of these rights and the labour of those who defend them.

The defence of labour rights in Brazil, much like rights defence in other areas, is protected by law. Nonetheless, as in the other areas, urban labour rights leaders face severe risks when they denounce irregular and corrupt practices.

Repression against environmental defenders

Notwithstanding the globalisation of their cause, environmental rights defenders in Brazil continue to work in difficult circumstances with little governmental support. Given that the demands of those who protect the environment often conflict with those of large landowners, defenders often find themselves in situations of intimidation, threat of physical violence and death. The peril to which environmental activists are subjected, not unlike the case of others in rural areas, are more intense in the Amazon region. However environmental defenders working in urban areas also face considerable risk. Frequently, those seeking to guarantee the integrity of the environment find themselves in conflict with developers and others interested in urban construction.

Human rights defenders battling state corruption

A particularly difficult area of rights defence is the battle against police corruption. This

corruption, often linked with police violence, has been shown to involve a broad range of authorities, including not only high-ranking police, but also prosecutors, judges and elected officials. Human rights defenders involved in documenting and denouncing state corruption are at particular risk of reprisals. Police forces have discredited the allegations and documentation of rights defenders by appealing to the public's concern with their deteriorating security thus invoking a false dichotomy that forces a choice between a vigorous police force and respect for human rights. Many human rights defenders are defamed and tried for libel or for so-called "formation of criminal gangs." In some states, such as Rio de Janeiro, those living in disadvantaged communities, including community leaders, have been put on trial for alleged association with drug trafficking and for denouncing or protesting against police violence in their communities.

The case of policeman **Francisco Vicente Badenes** is emblematic of this. Francisco has been subject to various forms of intimidation. Since, 1993, Francisco has been investigating the *Scuderie Detetive Le Cocq* (SDLC), a paramilitary group with ties to organised crime and highly-placed members of Brazil's business and law enforcement communities. He currently faces unfounded legal charges, which could lead to him no longer serving in the Brazilian police force.

Another effective method employed to weaken the work of human rights defenders has been to restrict the duties of the executive branch bodies responsible for monitoring the State in terms of its compliance with international human rights duties. These bodies suffer under political pressure from state-level authorities. The greater the number of human rights violations investigated by these bodies, the more confrontational and aggressive the state governments' position toward regulatory bodies becomes.

Andres Fernandes is a founding member of *Movimento Favelania*, a non-governmental organisation which works to empower communities in the *favelas* to speak out against human rights violations committed against them and to offer them legal support. He also established the *Agência de Notícias das Favelas - ANF* (Favela News Agency). Andres Fernandes is the victim of ongoing harassment and death threats and at one stage was forced to move to southern Brazil in order to seek safety. At the end of 2006 he returned to Rio de Janeiro to re-launch the ANF website and to continue his work in defence of human rights. However since his return he has again been subjected to harassment and intimidation. He also received death threats and his photo was reportedly published in a local newspaper, with a false statement suggesting that he had been threatened by drug dealers. Andres was again forced to leave Rio de Janeiro and is currently in hiding.

Reigning Impunity

One key factor behind the continuing abuses against rights activists is the high level of impunity enjoyed by those who threaten, intimidate and violate the physical integrity of human rights defenders. Given that the legal system frequently fails to investigate, try and punish those responsible for grave abuses, human rights violators, including police officers, private security firms, large landowners and powerful industry leaders often remain free from any investigation or prosecution for many years after the commission of their crimes.

Front Line calls upon the UN to urge the authorities in Brazil to prioritise the protection of human rights defenders and in doing so to:

- (1) To conduct an independent inquiry into the source of threats, ill-treatment, torture and all forms of intimidation and harassment directed towards all those human rights defenders mentioned in this report;
- (2) To ensure that all human rights defenders in Brazil are free to carry out their human rights activities free from persecution and in particular to ensure effective protection measures are put in place for defenders of land rights, indigenous peoples rights and environmental rights.

Front Line Board of Trustees

Denis O'Brien, Mary Lawlor, Pierre Sané, Michel Forst, Kieran Mulvey, Noeline Blackwell, David Sykes, Maria Mulcahy

Front Line Leadership Council

Hanan Ashrawi, Robert Badinter, Bono, His Holiness The 14th Dalai Lama, Tenzin Gyatso, Indai Lourdes Sajor, Wangari Muta Maathai, Adolfo Perez Esquivel, Desmond Tutu

Registered Charity Number CHY 14029