
BRAZIL

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2010

Political context

Brazil is one of the most socially unequal societies in Latin America¹. Since 2002, one of the main objectives of President Luiz Inácio Lula da Silva Government has been to change this situation. The extensive land mass in Brazil means that vulnerable groups differ according to the regions. Broadly speaking, the most vulnerable groups are the rural workers, the “quilombola” communities, the indigenous people and those who work in “slavery”². In spite of the regional differences, the struggle for land rights is common across all Brazilian States.

Brazil is marked by an intense, violent police and parapolice context; the militia are seen to be the main problem. These groups, comprised of private and official security agents, have the political and economic support to act without fear of being brought to justice. Another serious problem of the violence in Brazil is generated by death squads, in which the police also take part, as well as hired assassins, who are contracted by gangs, economic groups, landowners or corrupt politicians to carry out assassinations. These death squads are also responsible for assassinations of landless workers and indigenous people in the context of the fight for land rights. Following his visit to Brazil, the United Nations Special Rapporteur for Extrajudicial Executions stated in his report that Brazil has the highest homicide rate in the world³.

However, it is worth mentioning that, in December 2009, the executive developed a bill to create a National Truth Commission (*Comissão Nacional da Verdade*) to investigate human rights violations committed during the military dictatorship. This body aims to recover the files that

1/ The Gini Index for Brazil in 2009 was 55, ahead of Honduras (55.3), Bolivia (58.2), Colombia (58.5) and Haiti (59.5). See United Nations Development Programme (UNDP), *Human Development Report*, 2009.

2/ The concept of slavery is related to the idea of labour exploitation by coercion and deprivation of liberty.

3/ See Human Rights Council, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston*, United Nations Document A/HRC/11/2/Add.2, March 23, 2009. For the São Paulo executions, see the report produced by various civil society organisations, *Mapas do extermínio: execuções extrajudiciais e mortes pela omissão do Estado de São Paulo*, November 25, 2009.

are still held by the military and that are essential to throw light on the crimes committed during the *de facto* regime⁴.

With regard to freedom of expression, two events related to freedom of the press stand out in 2009. Although the Press Law 5.250/67 – passed in 1967 during the last military dictatorship and which regulated the press and allowed journalists to be imprisoned as a result of their publications – was rescinded in April, in July, a federal judge banned the publication in the *Estado de São Paulo* newspaper of an investigation of alleged corruption involving Mr. Fernando Sarney, the son of Senate President José Sarney. This prior censorship was justified by the Federal High Court as being a protection of constitutional guarantees⁵.

The work of the National Protection Programme for Human Rights Defenders (*Programa Nacional de Proteção aos Defensores de Direitos Humanos* – PPDDH), created five years ago by the Federal Government, continued during 2009. However, civil society pointed out that there continues to be a need to develop and strengthen this programme, both at the Federal and State levels, for reasons that include a lack of continuity in the implementation of the agreements, bureaucracy and the lack of coordination between the actors involved, in order to achieve effective protection of the defenders⁶.

Violence against and judicial harassment of land rights defenders

2009 was a symbolic year as it was the 25th anniversary of the Landless Rural Workers' Movement (*Movimento dos Trabalhadores Rurais Sem Terra* – MST) and was marked by a worsening in the tendency to stigmatise and criminalise members of social organisations and movements in Brazil. The MST and defenders that work with them were one of the main targets of this campaign carried out by sectors of the mass media, landowners and legislators with interests in the agricultural business⁷. This practice of criminalisation of social movements is characterised by

4/ Furthermore, on March 26, 2009, a petition was presented to the Inter-American Court on Human Rights (IACtHR) on crimes committed during the Brazilian dictatorship (Case No. 11.552, *Julia Gomes Lund y otros*), that will oblige the Brazilian State to adopt a position related to the amnesty laws in the country. See Inter-American Commission on Human Rights (IACHR) Press Release No 16/09, April 8, 2009.

5/ See Observatory of the Right to Communication (*Observatório do Direito à Comunicação*) Press Release, December 11, 2009.

6/ See Letter to the authorities of the Brazilian Committee of Human Rights Defenders (*Comitê Brasileiro de Defensores e Defensoras de Direitos Humanos*), together with 15 other NGOs, including Global Justice (Justiça Global), Never Again Torture Group (*Grupo Tortura Nunca Más*) and the National Human Rights Movement (*Movimento Nacional de Direitos Humanos*), November 13, 2009.

7/ See Never Again Torture Group and Global Justice.

an attempt to convert the activities of these movements into illegal actions and thereby delegitimize them so that they lose their political power when they are considered to be “criminals” and “agitators”. One of the most common strategies is the creation of parliamentary investigation commissions against agricultural movements with the aim of investigating possible embezzlement of funds or other types of financial problems. In 2009, the Rural Bench (*Bancada Ruralista*) pushed through the creation of a Mixed Parliamentary Investigation Commission (*Comissão Parlamentar Mista de Inquérito – CPMI*) – with the participation of Members of Parliament and Senators – in order to “investigate the MST”. In spite of the wider objective of the CPMI – determination of the causes, conditions and responsibilities related to the deviation of funds and irregularities in the agreements and contracts of the agrarian reform and development organisations or bodies; investigation into the clandestine funding and deviation of funds for land invasions; analysis and assessment of the structure of Brazilian agriculture, specifically the promotion and application of the agrarian reform – the latter was named and called the “MST CPMI” by the mass media in an obvious attempt to stigmatise the movement. During 2009, more than 20 bills were presented with the aim – either direct or indirect – to criminalise agrarian movements or prevent the development of agricultural policies⁸.

The economic incentives provided to agricultural businesses (including biodiesel, soya, cattle rearing and eucalyptus) encourage a lack of planning and control of the expansion of land use in areas that are protected because of their natural resources or because they are indigenous territories. Irregular security companies have spread across these regions where they act as illegal militia at the service of landowners. Brazilian rural workers and social movements continue to be victims of repression by these companies, as shown by the violent evictions ordered by landowners and the militarised police across Brazilian States, often carried out with the collusion of local politicians and judiciary. On August 6, 2009, the Inter-American Court of Human Rights (IACtHR) condemned the Brazilian State for political persecution of the MST; the sentence was backed by the Presidential Human Rights Department. The IACtHR condemned the police officer from the Paraná State for violating the right to organise and the right to privacy of the MST leaders⁹. The proceedings before the IACtHR were handled by the NGO Global Justice (Justiça Global), following telephone tapping carried out by the police in 1999 of a cooperative and a rural workers organisation linked to MST. In addition to the statement made by the National Human Rights Department, at the end

8/ See Land Pastoral Commission (CPT) 2009 Report, *Conflitos No Campo Brasil 2009*, April 2010.

9/ See Global Justice.

of 2009, it was still not clear whether the Brazilian State would implement any measures. The IACtHR ruling against the Brazilian State was good news in a hostile context for rural small holders and organisations fighting for land rights given that State sectors try to criminalise and stigmatise them using means such as a report presented by the Public Ministry in 2008 against members of MST in which it was claimed that they were a threat to the political system and the creation of the CPMI to inspect the transfer of funds to MST from NGOs¹⁰. However, this ruling did not prevent acts of harassment being carried out against MST in 2009.

In this context, since June 2008, Mr. **José Batista Gonçalves Afonso**, a member of the Land Pastoral Commission (*Comissão Pastoral de Terra* – CPT) for Marabá, Pará State, one of the most violent States in Brazil¹¹, has had a two year and five month prison sentence hanging over him for the crime of “kidnapping”. Although an appeal was lodged on January 21, 2009, the Attorney General ruled in favour of the sentence. Following this, Mr. Batista Gonçalves Afonso presented an appeal before the Brasília Federal Judge. However, as of the end of 2009, the result of the appeal was unknown and Mr. Batista Gonçalves Afonso remained free pending trial.

Harassment and threats against environmental defenders

Environmental defenders continued to be subject to threats and assassinations in 2009. For example, the French biologist **Pierre Edward Jauffret** was severely beaten when he was at home in the San Antonio de Tauá reserve, Pará State. He died two weeks later, on December 14, 2009, as the result of a blow to the head during the assault. His son, who shared his father’s struggle, said that they had both been threatened for over a year

10 / *Idem*.

11 / Mr. Batista Gonçalves Afonso is also one of the national coordinators of the National Network of Popular Lawyers (*Rede Nacional de Advogados e Advogadas Populares* - RENAP) and belongs to the Human Rights Commission of the Brazilian Lawyers’ Order (*Orden dos Advogados do Brasil*), Pará section. The conflict began in March 1999 when rural workers from the Federation of Agricultural Workers (*Federação dos Trabalhadores na Agricultura* - FETAGRI) and MST of south and southeast of Pará State camped outside the headquarters of the National Institute of Colonisation and Agrarian Reform (*Instituto Nacional de Colonização e Reforma Agrária* - INCRA) in the Marabá municipality, Pará, to show their disagreement with the slow pace INCRA is solving the problem of settlement of thousands of landless families that were camping out and the precariousness of the existing settlements. On April 4, 1999, representatives of the Federal Government and the Pará State Government met at INCRA with workers and 120 leaders of associations and trade unions to negotiate. Towards 10 pm, given that there was no response to their demands, the workers went into the offices and refused to allow the negotiation team to leave that night and the morning of the following day. Mr. José Batista Gonçalves Afonso, who was advising MST and FETAGRI at that time, tried to mediate the conflict between INCRA and the workers. However, he was subsequently accused by the Federal General Prosecutor’s Office of having prevented the INCRA representatives from leaving the building.

because of their denunciations of deforestation in the area. The victim's family reported that there were attempts to show that what happened was the result of a fight between the biologist and local drunks¹². Likewise, in 2009, a representative of Rio de Janeiro artisanal fishermen decided not to make any more reports about the setting up of industrial fishing companies that destroy the environment, following more than a year of death threats against him and his family. The latest threat he received was from a known assassin from the region who is a member of the militia. For security reasons, his name and whereabouts are not being disclosed¹³.

Reprisals against defenders who denounce police and parapolic violence

Human rights defenders face a wide range of repressive measures from demoralisation and defamation to threats, harassment and even assassinations¹⁴. State security policies expose them to arbitrary action by the police and parapolic. On January 24, 2009, Mr. **Manoel Bezerra de Mattos**, a human rights defender, lawyer and Councillor of Itamé city, Paraíba, was assassinated. He had been benefiting from Inter-American Commission of Human Rights (IACHR) precautionary measures since 2002, even though Brazil had not implemented them. Mr. Bezerra de Mattos had publicly denounced the actions of extermination groups in Paraíba and Pernambuco States in north-eastern Brazil. Mr. Bezerra de Mattos' statements contributed to the work of the Parliamentary Investigative Committee (*Comissão Parlamentar de Inquérito* – CPI) about gunmen in Brazil. His assassination was condemned by the IACHR¹⁵. On June 24, 2009, a request was made to Federal Justice to transfer the investigation and trial for the assassination of Mr. Manoel Bezerra de Mattos given that the Paraíba Governor himself, the members of the Pernambuco Government and the State Human Rights Council publicly recognised that the Federal States did not have the capacity to handle the case. In August 2009, the Attorney General of the Republic accepted the transfer request and, as of the end of 2009, the decision on the case was depending on the Supreme Court of Justice. In the meantime, of the five accused, only three were still imprisoned at the end of 2009 and it is expected that a public hearing will be held in 2010

12/ See Legal Project (*Projeto Legal*), Action by Christians for the Abolition of Torture - Brazil (ACAT-Brazil) and CPT Press Release, December 16, 2009.

13/ See National Association of Human Rights, Teaching and Postgraduates (*Associação Nacional de Direitos Humanos Ensino e Pós-Graduação* - ANDHEP), *National Assessment of the Situation of Human Rights Defenders for the National and Special Human Rights Department of the Human Rights Defenders Protection Programme*, November 2009.

14/ *Idem*.

15/ See IACHR Press Release No. 04/09, February 6, 2009.

to discuss the federalisation of the investigations related to Mr. Manoel Bezerra de Mattos' assassination¹⁶.

The parapolice violence also affected Rio de Janeiro Members of Parliament. For instance, Mr. **Marcelo Freixo** and his advisor, Mr. **Vinicius George**, received death threats in May 2009 following Mr. Freixo's nomination as President of the Investigative Parliamentary Commission related to the increase in militia presence. The information provided by a witness enabled the plans against the lives of the functionaries to be foiled. Since the denouncement, both of them have special protection¹⁷.

Urgent Intervention issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. José Batista Gonçalves Afonso	Judicial harassment	Open Letter to the authorities	February 10, 2009

16 / See "Direitos Humanos" Press Release, January 25, 2009 and Global Justice.

17 / See Global Justice.