
BRAZIL

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2011

In Brazil, there have been efforts to improve the situation of human rights defenders through the National Programme for the Protection of Human Rights Defenders. Nevertheless, in 2010 and 2011, defenders who reported police and parapolice violence continued to be victims of murder and violence. Likewise, defenders of the right to land, environmental defenders and indigenous rights defenders continued to be subjected to acts of violence, threats and judicial harassment. Furthermore, defenders of persons deprived of their liberty were threatened and harassed.

Political context

Presidential elections were held in October 2010 and Ms. Dilma Rousseff, the candidate for the Workers' Party – the same party as that of outgoing President Mr. Luiz Inácio Lula da Silva – was elected. Ms. Rousseff took office on January 1, 2011, becoming the first female President of Brazil, a country that continues to reinforce its position as a regional power that can greatly influence other Latin American countries. However, its economic growth has not yet eradicated human rights problems, high levels of social inequality and violence.

In 2010, the UN Special Rapporteur on Contemporary Forms of Slavery, its Causes and Consequences, Ms. Gulnara Shahinian, found that despite efforts and policies implemented by the Government, slave labour still exists in Brazil, and expressed concern over the direct link between this type of slavery, poverty and the concentrated ownership of land¹. In Brazil, land ownership and natural resources continued to be a significant source of conflict and violence², and water-related conflicts saw an increase of 93.3% in 2010³. Furthermore, in 2010, the United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Mr. Philip Alston, presented a follow-up report that alerted on the persistence of murders committed by death squads and militia operating with the participation

1/ See Human Rights Council, *Report of the Special Rapporteur on Contemporary Forms of Slavery, its Causes and Consequences, Ms. Gulnara Shahinian*, United Nations Document A/HRC/15/20/Add.4, August 30, 2010.

2/ The number of conflicts in the countryside remains high (1,186 in 2010 vs. 1,184 in 2009) and the violence caused by these conflicts rose between 2009 and 2010 (34 murders in 2010 vs. 26 in 2009). See Land Pastoral Commission (*Comissão Pastoral da Terra* - CPT) Press Release, April 19, 2011.

3/ In 2010, 87 conflicts related to the use, preservation, dam-construction and individual appropriation of water were recorded, as opposed to 45 in 2009. See CPT Press Release, April 19, 2011.

of current and former members of the police, as well as the constant abuse of the number of “resistance” killings⁴. Furthermore, the Special Rapporteur called the attention on the criminal gangs that continue to do as they like in prisons, causing serious acts of violence and deaths, while the Government does not protect and guarantee the rights of persons deprived of their liberty⁵. The critical prison situation was also the subject of reports on cases of torture, as well as serious overcrowding problems⁶.

Furthermore, the Brazilian judiciary once again refused to try the crimes against humanity and human rights violations that occurred during the military dictatorship (1964-1985). On April 29, 2010, the Federal Supreme Court of Brazil decided that the Amnesty Law of 1979, which exonerated all those accused of “political offenses and linked to political offenses”, including extrajudicial executions, torture and other human rights violations committed by members of the old military regime, was still in effect. In November 2010, the Inter-American Court on Human Rights (IACtHR), reiterating its jurisprudence regarding other dictatorships in the region, found Brazil guilty of serious abuses carried out during the military dictatorship and declared that this Amnesty Law was without “legal effects”⁷. However, as of April 2011, the IACtHR judgement had not yet been enforced, nor had the bill that the Executive presented in December 2009 been adopted in order to create a National Commission on Truth to investigate human rights violations committed during the military dictatorship.

Furthermore, the Brazilian Government openly rejected the precautionary measures issued on April 1, 2011 by the Inter-American Commission on Human Rights (IACHR) for members of the indigenous communities from the Rio Xingu basin. These precautionary measures were issued due to the damages that the construction of the Belo Monte Hydroelectric Complex could cause to the indigenous communities in the State of Pará⁸.

4/ “Resistance” killings are those in which policemen kill a person, but classify it as an act committed while the person was committing the crime of resisting arrest or disobeying police orders. See Human Rights Council, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions*, United Nations Document A/HRC/14/24/Add.4, May 26, 2010.

5/ See Human Rights Council, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions*, *op. cit.*, and Inter-American Commission on Human Rights (IACHR) Press Release No. 114/10, November 18, 2010.

6/ See Prison Pastoral (*Pastoral Carcerária*) Report, *Relatório sobre tortura. Uma experiência de monitoramento dos locais de detenção para prevenção da tortura*, 2010 and United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions Press Release, April 16, 2010.

7/ See IACtHR Judgement, *Gomes Lund Case et al. (“Guerrilha do Araguaia”) vs. Brazil*, November 24, 2010.

8/ See CIDH Precautionary Measures 382/10, April 1, 2011.

As a result of these precautionary measures, in which the IACHR asked the Brazilian Government to immediately stop licensing this hydroelectric complex until the affected communities had been properly consulted and measures had been adopted to protect their life and personal integrity, President Dilma Rousseff announced the suspension of Brazil's relations with the IACHR⁹.

Among the positive developments, were efforts to improve the effectiveness of the protection for human rights defenders within the framework of the National Programme for the Protection of Human Rights Defenders (*Programa de Proteção a Defensores dos Direitos Humanos - PPDDHH*). In 2010, this Programme was being implemented in the States of Pará, Pernambuco, Bahia, Espírito Santo, Rio de Janeiro and Minas Gerais. In March 2011, the Programme was extended to include the States of Maranhão and Sergipe¹⁰.

Killings, threats and harassment against defenders who report police and parapolice violence

Defenders who report human rights abuses and violations by members of the military, policemen or parapolice militias continued to be under constant attack. On February 28, 2011, the body of Mr. **Sebastião Bezerra da Silva**, Coordinator for the central-west region of the National Human Rights Movement (*Movimento Nacional de Direitos Humanos - MNDH*) and member of the Tocantins Human Rights Commission (*Comissão de Direitos Humanos do Tocantins*), was found buried in a farm in the municipality of Dueré, in Tocantins State. Mr. Bezerra da Silva reported summary executions, torture and mistreatment by the police, and had received numerous threats as a result. Mr. Bezerra da Silva was last seen on February 26, 2011, and when his body was found, he appeared to have been tortured. Investigations into the events advanced and, as of April 2011, brothers Ricardo José Gonçalves, Janes Miguel Gonçalves Junior and Rogerio Miguel Gonçalves had been identified as the murderers¹¹. Furthermore, Mr. **Josilmar Macário dos Santos**, an activist who had denounced the impunity of extrajudicial executions, including the murder of his brother, Mr. Josenildo Estanislau dos Santos, who was executed by military police officers from the First Battalion on April 2, 2009 in Rio de Janeiro, received threats against him and his family since the death of his

9/ On June 1, 2011, the Brazilian Institute of Environment and Renewable Resources (*Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis - IBAMA*) granted the licence to install the Belo Monte dam.

10/ See Human Rights Secretariat Press Release, March 16, 2011.

11/ See MNDH and Human Rights Secretariat Press Releases, February 28 and April 18, 2011.

brother. On May 7, 2010, Mr. Josilmar Macário dos Santos was injured by a gunshot as he was driving a taxi. Fearing for his life, he was forced to stop his work as a taxi driver and having a fixed address. He was included in the PPDDHH in Rio de Janeiro in May 2010 but, as of April 2011, neither he nor his family had received adequate protection¹².

Furthermore, the offices of Dignitatis, an organisation that has played a key role in federalising the proceedings of the investigation into the killing of Mr. **Manoel Bezerra de Mattos**, a lawyer and human rights defender who was murdered in January 2009 for reporting the actions of illegal militias that operate on the border between the States of Paraíba and Pernambuco, were attacked. On December 13, 2010, the doorway to the offices of Dignitatis was seriously damaged, and traces of bullets were found. Later, on January 30 and 31, 2011, strangers forcefully entered the offices during the night and stole various objects, including a computer and cameras with images and videos related to the organisation's work. These events were reported at the second police station in the city of João Pessoa and an investigation was opened. In April 2011, there were no leads in the investigations and although experts had examined the premises, their findings were not included in the case file. With respect to the request to federalise the proceedings for the murder of Mr. Manoel Bezerra de Mattos, on October 27, 2010, the High Court of Justice agreed to federalise the case. On April 29, 2011, the federal office of the Public Prosecutor had presented its final arguments in the case and was waiting for the defence to present its own.

Judicial harassment, violence and threats against defenders of the right to land, indigenous peoples' rights and environmental rights

In 2010 and 2011, defenders of land rights, indigenous peoples' rights and environmental rights continued to be victims of violence and judicial harassment. Mr. **Rosivaldo Ferreira da Silva** or **Cacique Babau**, leader of the Tupinambá people in the State of Bahia, was repeatedly accused of numerous offenses and threatened for defending the rights of his people to their ancestral lands¹³. For example, on March 10, 2010, after a group of indigenous Tupinambás returned to their ancestral lands in Serra do Padeiro, Mr. Babau was violently beaten, threatened with death, and imprisoned by five hooded federal policemen who did not identify themselves.

12/ See Global Justice (*Justiça Global*).

13/ The Tupinambá community has spent years fighting for its land, and its leaders have been the victims of serious attacks and harassment since the publication of a report in 1996 identifying and delimiting the Tupinambá Indigenous Land, which was written by a working group of experts from the National Indian Foundation (*Fundação Nacional do Índio* - FUNAI).

The next day, an anthropologist from the Federal Public Ministry was able to confirm that he had been beaten, was limping, and had not been provided with any medical attention. Despite this, the Superintendent of the federal police in Bahia claimed that there were no signs of torture or mistreatment. Likewise, on March 20, 2010, Mr. **Gilvaldo Jesus da Silva**, Mr. Babau's brother and another Tupinambá leader, was detained and charged - along with his brother - with "forming a gang", "invading property" and "damaging property". Police argued that as leaders of the Tupinambá community, they organised invasions of haciendas on the lands they claimed to be ancestral. On April 16, 2010, the da Silva brothers were transferred to a federal maximum security prison in Mossoró, Rio Grande do Norte, more than 2,500 km from their lands, in violation of the Indian Statute allowing indigenous peoples involved in legal proceedings to remain at the National Indian Foundation (*Fundação Nacional do Índio* - FUNAI) facility nearest to their homeland. Eventually, a *habeas corpus* request for the da Silva brothers was granted and they were released on August 17, 2010. However, as of April 2011, the proceedings against them were still underway¹⁴. Moreover, on June 3, 2010, their sister, Ms. **Glicéria Jesus da Silva** or **Glicéria Tupinambá**, another community leader and member of the National Indigenous Policy Commission (*Comissão Nacional de Política Indigenista* - CNPI), was detained along with her two-month-old baby and charged with "robbery". This occurred the day after her meeting with then President Lula, in which they discussed matters on violence against her community. After being held for five days, she was granted a *habeas corpus* and was released but as of April 2011, the proceedings against her were still pending¹⁵. Furthermore, on July 31, 2010, Mr. **Alexandre Anderson de Souza**, President of the Seamen's Association (*Associação dos Homens do Mar* - AHOMAR)¹⁶, and his wife saw unknown men prowling their home and therefore called the military police. When the strangers saw the policemen, they began shooting and a confrontation ensued in which a policeman and one of the attackers were injured. Mr. de Souza and his wife were forced to leave their home for a few days for security reasons. However, when they returned, they continued to be harassed. On September 1, 2010, police officers tried to arrest them without clearly explaining why, but AHOMAR members who were present at the time stopped them. One of the policemen told

14/ See Landless Rural Workers' Movement (*Movimento dos Trabalhadores Rurais Sem Terra* - MST) and Global Justice.

15/ *Idem*.

16/ Organisation that fights for the rights of the fishermen in Rio de Janeiro, especially those affected by the construction of the Petrobras gas pipeline, since the pipeline will have a negative impact on the surrounding area and on the livelihoods of the fishermen in that part of Bahia Guanabara.

Mr. Anderson de Souza in a threatening tone that he should not go out to sea anymore “for work or for pleasure”. These acts of harassment against Mr. de Souza and his wife were reported but as of April 2011, there were no leads and they still felt unsafe because, although they had police protection under the PPDDHH, it was insufficient and did not meet the needs of the defender and his family¹⁷. In addition, as of April 2011, the appeal lodged by Mr. **José Batista Gonçalves Afonso**, a member of the Land Pastoral Commission (*Comissão Pastoral da Terra - CPT*) in the city of Marabá in Pará State, against his two years and five months’ imprisonment sentence for “kidnapping” was still pending and was due to be decided on June 20, 2011 by the Third Class of the First Federal Regional Court in Brasília. Mr. Gonçalves Afonso faces the proceedings in liberty. On the other hand, although the Human Rights Secretariat of the Office of the President said it backed the IACtHR judgement of August 6, 2009, which found Brazil guilty of police persecution against the Landless Rural Workers’ Movement (*Movimento dos Trabalhadores Rurais Sem Terra - MST*), as of April 2011, no measures had been taken to implement this judgment.

Threats against and judicial harassment of defenders who report violations of the rights of persons deprived of their liberty and abuse in prisons

Defenders of persons deprived of their liberty who report the difficult prison situation and constant human rights abuses committed against detainees, were also threatened and suffered judicial harassment in 2010 and 2011. For years, Father **Savério Paolillo (Father Xavier)**, Coordinator of the Pastoral of the Minor in the State of Espiritu Santo, has been monitoring, along with other defenders, the prison system in Espiritu Santo and reporting human rights violations that occur there. Because of his work, Father Xavier was verbally threatened in January 2010 and received anonymous threats on his mobile phone in April 2010. He reported these threats to the authorities but as of April 2011, there were no leads in the investigations and Father Xavier had not received adequate protection, causing him to seriously fear for his life and the life of his co-workers¹⁸. Furthermore, in March 2011, criminal proceedings were initiated against Mr. **Luis Antônio Câmara Pedrosa**, President of the Human Rights Commission of the Section of the Order of Lawyers of Maranhão (*Comissão de Direitos Humanos da seccional da Ordem dos Advogados do Maranhão - OAB-MA*), for “slander” after he reported that the former Deputy Secretary of the Maranhão penitentiary system, Mr. Carlos James Moreira, had participated in drug trafficking and receiving stolen vehicles

17/ See Global Justice.

18/ *Idem*.

in prisons. The criminal proceedings against Mr. Luis Antônio Câmara Pedrosa were filed on April 18, 2011, in light of a *habeas corpus* made by the Order of Lawyers of Brazil (*Ordem dos Advogados do Brasil*)¹⁹.

Urgent Interventions issued by The Observatory from January 2010 to April 2011

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Manoel Bezerra de Mattos	Murder / Federalisation of trial	Press Release	September 3, 2010
Dignitatis / Mr. Manoel Bezerra de Mattos	Robbery / Acts of intimidation	Urgent Appeal BRA 001/0311/OBS 048	March 25, 2011