



**Written Testimony of Amnesty International
to the Tom Lantos Human Rights Commission**

Human Rights Concerns in Brazil

May 5, 2010

Amnesty International is a worldwide movement of people who campaign for internationally recognized human rights for all. Our supporters are outraged by human rights abuses but inspired by hope for a better world, so we work to improve human rights through campaigning and international solidarity. We have more than 2.8 million members and supporters in more than 150 countries and regions and we coordinate this support to act for justice on a wide range of issues.

Background

The human rights record of Brazil since the transition from democracy in 1985 has been essentially about gaps between promise and delivery and between the vast divide in the socio-economic conditions of the population. Although there have been innumerable advances, the promotion and protection of human rights has fallen far short of Brazil's obligations.

Brazil boasts some of the most progressive legislative protections in the world, which were set out in the 1988 constitution and subsequent legislative reforms. The country was also one of the first to develop a National Human Rights Plan, and has recently launched its third plan. Similarly, since the transition to democracy, the space that has opened up for scrutiny and criticism from a wide and diverse media as well as a strong and developed civil society has been notable. Under President Lula, extensive social investment under the 'bolsa familia' plan, which provides grants to poor families in exchange for schooling their children, has been recognized as reducing socio-economic disparity. At the same time, the government has launched numerous plans and projects to address various human rights-related issues.

Brazil continues to be an active participant of the UN system, recently undergoing the Universal Periodic Review process and being one of the first countries to extend a standing invitation to the UN Special Procedures, having been visited by numerous Special Rapporteurs. Above all, the last two governments have been largely open to the human rights problems that they face, recognizing many of the worst violations and sometimes seeking support from the international community to address these problems.

However, the openness of government and the strength of the law have not been matched by the full and effective provision and protection of human rights for the population. These

have been hindered by numerous factors such as: the large socio-economic disparity which has denied millions access to their human rights; high levels of urban criminality and gun violence; the extensive prevalence of organized crime and corruption, especially involving law-enforcement agents; a slow and discriminatory justice system; short term policy-making directed by vested political and economic interests; and the inconsistency and weakness of certain state institutions.

Human rights groups have raised issues related to police violations and public security, torture and prison conditions, access to land, the rights of indigenous and Afro peoples, slave labor, as well as cases of violations against women and minorities. In such a socially divided society, and given the inevitable confrontation with vested political and economic interests, the concept of human rights has been persistently attacked and undermined. As a consequence, it is often discredited as being merely the 'defense of criminals'. Human rights defenders continue to suffer threats, attacks and even killings, while the space for discussing human rights is under threat.

The most recent and troubling example of this has been the furor that surrounded the presentation of Brazil's third national human rights plan (PNDH 3). Though the plan itself is broad and inconsistent in parts, it undoubtedly stands as a strong, democratic and transparent recognition by Brazil of its need to meet its national and international obligations, being signed by all ministers and the president. However, the PNDH 3 promises to set up a 'Truth and Reconciliation' commission to look into the human rights violations of the military regime, ensure peacefully negotiated land evictions of land activists and support women's sexual and reproductive rights have been challenged by the Ministry of Defense and the armed forces, the agricultural lobby and the Catholic church respectively.

Such has been the vehemence of these attacks that the very concept of human rights has been threatened. The president immediately denied knowledge of the details of the plan and all three presidential candidates have effectively distanced themselves from it as 'human rights' have become seen as a threat to candidates. This message has been further reinforced following a decision by the Federal Supreme Court on Thursday to uphold the 1979 Amnesty for the torturers, killers and rapists of the military regime, a decision which sought compromise over justice and was supported by all presidential candidates.

Main Concerns

Public Security

Brazil is suffering from extreme levels of criminal violence, with exceptionally high numbers of homicides. The vast majority of homicides, especially gun related killings, are concentrated in socially excluded areas where there is a lack of state presence. These communities suffer some of the highest homicide rates in the world. For several decades the state has responded to this by adopting military-style policing. This has resulted in police adopting a conflict mentality against whole communities, effectively criminalizing all residents within. Tactics involve violent short term incursions into communities; random firing of high powered weapons putting all residents including women and children at risk; the misuse of military equipment such as armored vehicles; the use of intimidating, violent and corrupt practices against residents; the lack of proper judicial warrants for what are effectively invasions into private homes; consistent attempts to cover-up human rights violations and the failure to properly investigate them. Far from protecting the communities, the process has placed communities at greater risk.

Until recently, though federal and state governments have acknowledged human rights violations by elements in the police, in many cases they continue to support this style of policing. Several state governments have promoted a discourse and a policy based on combat and containment of crime in socially excluded communities. Recent efforts by state and federal governments indicate that they may be starting to recognize the need for a different approach. The federal government's security policy (PRONASCI) has sought to support alternative security, better policing and social investment for high crime urban areas, while states like Rio de Janeiro, Pernambuco, Minas Gerais amongst others have invested in alternative security projects designed for socially excluded / high crime areas with mixed results. Nevertheless, there remains an overall lack of long term policy, fundamental reform and effective federal and state collaboration to genuinely address the problem.

In São Paulo, the state government continues to adopt "saturation operations" in favelas. These operations involve military-style occupations of communities for a period of 90 days followed by police withdrawal. Members of the community of Paraisópolis, São Paulo, reported to Amnesty International cases of torture, excessive use of force, intimidation, arbitrary and abusive searches, extortion and theft by police officers during a saturation operation in February 2009.

Residents of the Acari and Maré favelas in Rio de Janeiro reported to Amnesty International that violent police operations regularly coincided with children's return from school, putting pupils at risk and forcing schools to close. Cases of torture, intimidation, illegal and arbitrary searches, extortion and theft were also reported.

Police killings, extra-judicial executions and excessive use of force

Since 2000 thousands of people have been killed annually by police in situations described as "resistance followed by death", a term which invariably turns the victims into aggressors. Most of these cases are not investigated, crime scenes are invariably tampered with, witnesses are intimidated and authorities fail to follow up on reports of violations.

Statistics for police killings in Rio de Janeiro have increased dramatically since 1999, reaching a peak in 2007 and strongly suggesting a clear policy decision to adopt combative and violent methods against drug factions in shanty towns. In 2006 police killings were equivalent to 14% of killings in the state.

In 2009 authorities in Rio de Janeiro and São Paulo continued to describe killings by police as "acts of resistance", contrary to the recommendations of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions and to the third national human rights plan. Hundreds of killings were not properly investigated and little, if any, judicial action was taken. A study by the Public Security Institute attached to Rio de Janeiro's state Secretariat of Public Security found that between January 1998 and September 2009, 10,216 people were killed in the state in incidents registered as "acts of resistance". In Rio de Janeiro, between January and September 2009, police killed 805 people in reported "acts of resistance". In São Paulo the comparable figure was 499, an increase of 34 per cent over 2008, with killings by military police increasing by 57 per cent.

In October, three police officers were killed in Rio de Janeiro when a police helicopter was shot down during a conflict between rival drug factions. Gang members began burning buses and driving residents from their homes in an attempt to distract police from their attack on a rival community, during which the helicopter had been downed. Police mounted a series of operations, described by a senior officer as “retaliation”. Over a period of a week, more than 40 people were killed, including a 24-year-old woman hit by a stray bullet as she held her 11-month-old baby, and a 15-year-old boy, who was putting out the rubbish and was also reportedly shot by police.

Organized crime and “death squads”

During 2009 and 2010 there have been recurrent reports of human rights violations by federal and state police officers involved in corrupt and criminal activity, and of killings perpetrated by “death squads” involving active and former members of the police.

In Rio de Janeiro investigations into para-policing groups (off-duty police, firemen and soldiers, known locally as *milícias*, who have taken over parts of the city) uncovered a web of corruption, violence and intimidation which extended into the heart of state institutions. At least seventeen public officials have received death threats from the *milícia* and criminal gangs, including three judges, seven prosecutors, five police chiefs and the head of the parliamentary inquiry into the *milícias*. They are now receiving police protection.

In 2008 a parliamentary inquiry into the role of para-policing groups was launched. The inquiry has uncovered extensive links between corrupt police officers, para-policing groups and state deputies accused of profiteering from protection rackets and mafia-style control of local businesses, and ensuring their own election in militia-dominated areas through intimidation and coercion. As a result of the inquiry several key *milícia* leaders have been imprisoned, though efforts to challenge their financial activities have not been implemented.

Prison conditions and torture

Detainees continue to be held in cruel, inhuman or degrading conditions. Torture is regularly used as a method of interrogation, punishment, control, humiliation and extortion. Overcrowding remains a serious problem. Gang control of detention centers results in high levels of violence between prisoners. Lack of independent oversight and high levels of corruption contribute to perpetuating entrenched problems of violence in the prison system, as well as in the juvenile detention system. Mechanisms for the implementation of the Optional Protocol to the Convention against Torture had still not been put in place by the end of the year.

Some of the harshest conditions of detention continue to be reported from Espírito Santo state. There are reports of torture, as well as of extreme overcrowding and the use of shipping containers (known as “microwaves”) as cells. There are reports of prisoners dismembering other prisoners. Following extensive pressure from local human rights groups and official state and national monitoring bodies, some building projects were initiated. In March, an illegal ban on monitoring visits to the prison system was finally lifted.

In December 2009, after evidence emerged of torture and attempted homicide in the Urso Branco prison in the state of Rondônia, the Inter-American Court of Human Rights issued a new resolution – its seventh since 2002 – calling on the Brazilian government to ensure the

safety of the prisoners held there. A decision on the Attorney-General's call for federal intervention in October 2008 was still pending before the Supreme Court at the end of 2009.

Human rights defenders

The human rights defenders program was introduced in a further two states and was operational in a total of five states by the end of 2009. However, in many cases effective protection has not been provided and defenders remain at grave risk because of the lack of political will to confront systemic human rights violations.

- In January 2009, Manoel Mattos, Vice-president of the Workers' Party in Pernambuco state and member of the local bar association's human rights commission, was killed by two hooded men who broke into his home and shot him at point-blank range. He had long campaigned against the spread of death squads and police violence. Despite repeated death threats, federal police had withdrawn the protection he was receiving at the end of 2007.

Land disputes

Conflict over land continues to generate human rights abuses committed by both gunmen hired by farm owners and police officers. According to the Pastoral Land Commission, between January and mid-November 2009, 20 people were murdered in land-related conflicts in Brazil.

- In Rio Grande do Sul state 2009, landless worker Elton Brum da Silva was shot dead by military police in August during an occupation of the Southall ranch in Santa Casa municipality. In the same month, local NGOs accused police of torture – including beating with batons, kicks, punches and the use of tasers – in the aftermath of an eviction in São Gabriel.
- In August, 50 military police evicted a group of landless workers from the Pôr do Sol farm in Maranhão state, beating up several landless leaders and threatening others verbally. They set fire to houses and destroyed personal belongings, including documents.
- In October, 20 armed, hooded men led by a local farmer attacked a settlement of 20 families in the municipality of São Mateus, Espírito Santo and Maranhão states. Threats from gunmen to kill any families settled in the area continued following the attack.

Right to adequate housing

Urban homeless groups suffer threats, attacks and excessive use of force at the hands of the police. In São Paulo a series of forced evictions suggests that a policy of slum clearance to make way for development projects is being pursued without regard for the rights of those made homeless as a consequence.

- On 18 June 2009, riot police in São Paulo charged at a group of 200 families living by the side of the road who had been evicted on 16 June from abandoned government offices. Police used pepper spray, teargas and batons against the residents, who set up burning roadblocks. According to the Homeless Movement of Central São Paulo (Movimento dos Sem Teto do Centro, MSTC), five homeless people were injured, including a child.

- In August 2009, riot police used rubber bullets, teargas and helicopters during evictions at the Olga Benário community in Capão Redondo in the south of São Paulo. Some 500 families were left homeless in extremely precarious conditions. In December, after national and international protest, the São Paulo state authorities agreed to repossess the land for social housing.

Plan for Accelerated Growth

The government's 2007 Plan for Accelerated Growth, (Programa de Aceleração do Crescimento, PAC) has been praised for having contributed to the country's economic stability. However, there are reports that some of the projects threaten the human rights of local communities and Indigenous Peoples. The projects, which include the building of dams, roads and ports, have sometimes been accompanied by forced evictions, loss of livelihoods and threats and attacks against protesters and human rights defenders.

- In August 2009, community leaders Father Orlando Gonçalves Barbosa, Isaque Dantas de Souza and Pedro Hamilton Prado received a series of death threats. The three were put under surveillance by unidentified men, and armed men forced their way into Father Barbosa's house. This followed their campaign to stop the building of a port at Econtro das Aguas, Manaus, Amazon state, an environmentally sensitive area and home to fishing communities. The development of the port was being funded under the PAC. On September 2, Father Barbosa was forced to leave Manaus for his own safety.

Indigenous Peoples' rights

In March 2009, the Supreme Court rejected a challenge to the legality of the Raposa Serra do Sol reservation in Roraima state. The ruling was seen as a victory for the Indigenous movement, but also contained a number of conditions that weakened future claims.

Mato Grosso do Sul continues to be the focus of grave human rights abuses against Indigenous Peoples in Brazil. The state government and the powerful farm lobby have used the courts to block the identification of Indigenous lands. Guarani-Kaiowá communities were attacked by security guards and gunmen hired by local farmers. Local NGOs have called for federal intervention to ensure the security of the Indigenous Peoples and the demarcation of their lands.

- In October 2009, members of the Apyka'y community, who had been evicted from traditional lands in April and were living in extremely precarious conditions by the side of a highway near Dourados, were attacked in the middle of the night by armed security guards employed by local landowners. Their homes were burned and one man was shot in the leg.
- In November 2009, two Indigenous teachers, Genivaldo Vera and Rolindo Vera, went missing after the forced eviction of the Pirajuí community from traditional lands on 30 October by a group of armed men. The body of Genivaldo Vera was subsequently found in a stream, bearing injuries consistent with torture. Rolindo Vera remained missing, feared dead at the end of the year.
- In December 2009, President Lula decreed the "homologation" (the penultimate step in the demarcation process) of nine Indigenous lands in Roraima, Amazonas, Pará and Mato Grosso do Sul states. One week after the announcement, the Supreme Court upheld an appeal lodged by local farmers, suspending the

Presidential decree in relation to the Guarani-Kaiowá Arroio-Korá reservation in Mato Grosso do Sul. The Supreme Court's decision was based in part on commentaries attached to the Raposa Serra do Sol ruling which requires land claims to be based on land occupancy in 1988, when the Constitution was promulgated.

Impunity for past violations

One of the contributions of the national human rights plan is a promise to set up a truth and reconciliation commission to investigate abuses under the country's military government (1964-1985). Some NGOs and relatives of victims criticized the initial proposals, as the commission's remit did not appear to include the prosecution of past violators. However, even this limited proposal has been strongly criticized by the Brazilian military, with the Minister of Defense attempting to further weaken it.

Nevertheless, increasing challenges have been made to the long-standing impunity for crimes committed during the military era. In August, the Supreme Court ruled that Uruguayan national Colonel Manuel Cordero Piacentini could be extradited to Argentina to face charges in connection with the enforced disappearance of Uruguayan and Argentine citizens and torture in the context of Operation Condor, a joint plan by Southern Cone military governments in the 1970s and 1980s to eliminate opponents.

A submission, by the Brazilian bar association and a leading judicial expert, to the Supreme Court challenging the interpretation of the country's Amnesty Law was overturned in April 2010. The Supreme Federal Court judges ruled seven to two to uphold the interpretation that crimes committed by members of the military regime were political acts and therefore covered by the amnesty. The ruling flouted Brazil's obligations under numerous international and national human rights laws.

The heritage of the failure to prosecute the crimes committed by members of the military regime lingers today. Few of those responsible for the extra-judicial executions, excessive force killings and acts of torture committed in Brazil are ever investigated, let alone brought to justice. Three notable massacres from the 1990's, Carandiru (the 1992 killing of 111 unarmed detainees in a São Paulo Prison), Vigário Geral (the 1993 massacre of 21 unarmed favela residents in Rio de Janeiro by a military police death squad) and Eldorado dos Carajás (the 1997 massacre of 19 land activists by members of the military police in the state of Pará), are still lingering in the courts. One of the few cases where persistent national and international campaigning has helped to ensure some justice is the murder of environmental and land activist Sister Dorothy Stang. Only a few days ago, one of the men who ordered her killing was sentenced to 30 years in prison, a rare occurrence in land-related killings in Brazil.

Conclusion

If there is one message that the US Congress can send to Brazil, it is to remind Brazil that its developing role on the regional and world stage lend even greater significance to its willingness and ability to adhere to its national and international human rights obligations. It is an essential time to regain and strengthen the concept of human rights and the public space available to defend them in.

AI is eager to work with Members of Congress, including members of the Tom Lantos Human Rights Commission, to improve the human rights conditions in Brazil.