

Human Rights Defenders in Brazil

The necessary consolidation of an effective public policy for the protection of human rights defenders in Brazil

Throughout the last decades Brazil has ratified the main regional and global human rights protection instruments. It also included several of these guidelines in the 1988 Federal Constitution. Following this path, in 2004 the country set up the Human Rights Defenders Protection Programme (PPDDH) within the Secretariat for Human Rights of the Presidency of the Republic (SHR/PR). Later on, in 2009, the National Policy of Protection for Human Rights Defenders was also created.

In 2015 the PPDDH completes eleven years. Since the beginning, the programme has shown itself as an important instrument for the protection of human rights defenders in the country. However, after more than ten years from its creation, the Programme still needs the implementation of a few mechanisms in order to become an effective protection policy.

In this regard, the PPDDH lacks a regulatory framework; the Bill that institutes the Programme has passed through all the commissions of the Brazilian Lower House, but until this moment it has not been approved. In addition to that, the Programme faces serious problems with the discontinuity of state conventions: the institutionalization of the programmes in the federated states is still at the mercy of local political

will. IN addition, the countless situations that promote violence and criminalization against human rights defenders in the country remain unchanged – many of them being the result of the development model adopted by the Brazilian state, captured by the big capital's interests. Since 2004, the Brazilian Committee of Human Rights Defenders is pointing that the confrontation of those questions is fundamental for the PPDDH effectiveness – otherwise, they will be the causes of the Programme's gradual weakening, as has been happening in the last few years.

The reactionary ideals' recent recrudescence throughout Brazilian society and the escalation of their representation in the Parliament point to an even more challenging situation in what relates to the human rights' consolidation in Brazil. In this regard, a question remains: could the political and social capital accumulated by human rights organizations and social movements stop the consolidations of those forces?

We keep struggling in order to transform the Programme in an effective public policy. However, we believe that the potentiality and the conditions to the fulfilment of a human rights culture in Brazil must come from the empowerment of NGOs, social movements, indigenous peoples, quilombolas, and other traditional communities.

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About this publication

The Human Rights Defenders in Brazil is a special issue edited by the Human Rights Organization Terra de Direitos in collaboration with social movements and other NGOs. The goal of this publication is to reaffirm the importance of an effective policy formulation to protect human rights defenders. It was written from a critical perspective about the improvements and challenges faced during the Human Rights Defenders Protection Programme's (PPDDH) implementation.



(photo: Odair da Silva)

Human Rights Defenders and the Brazilian development model

The Brazilian state has adopted an economic development model based on agribusiness, mining exploitation, large scale infrastructure projects (ports, hydro-power dams, roads, railways). It also comprises the dismantling of federal agencies responsible for land regularization, for the indigenous peoples, quilombolas¹, and other traditional communities' rights fulfilment. This development model is the reason behind the eviction of these groups from their lands, as well as deforestation processes, environmental imbalance, destruction of communitarian ways of living, violence and the violation of human rights.

¹ The term "quilombolas" refers to descendants of African slaves who continued living according to their traditions in communities throughout Brazil.

Human rights defenders opposing that reality live in a situation of threat and insecurity. The pressure exercised by illegal loggers, huge estate owners, land grabbers and businessmen is followed by the criminalization of social groups and movements. The mainstream media has a strong role in this, presenting the social movements in a biased way. Due to this and other factors, those groups and their movements are not viewed as human rights-holders, but as obstacles to the country's development. As a result of this escalating reactionism in the public opinion, it is alarming the vulnerable situation of those who struggle for the fulfilment of human rights in Brazil.

Hydroelectric Power Plants in the Amazon: the Tapajós Hydropower Complex

The construction of hydroelectric power plants in Brazil has caused severe human rights violations. On this matter, the Human Dignity Defence Council (currently Human Rights National Council) published in 2010 a report pointing at 16 violated rights in dams' construction sites throughout the country.

Among these violated rights were cited: the right to information, the right to education, the right to health, the right to adequate housing, the right to a balanced environment, and the right to full coverage of losses. According to the report, "the present pattern of dams' implementation has recurrently produced severe human rights violations, whose

consequences intensify the already deep social inequalities, meaning more misery situations and social, family and individual disruption".

The Belo Monte hydroelectric power plant is an emblematic case of this reality: the Free, Prior and Informed Consultation to the indigenous people – a right fixed in the International Labour Organization's Convention nº 169 – was not carried out.

More than three thousand families were removed from their houses without the proper compensation or resettlement. Also the real estate speculation provoked by the dam's construction has been responsible for evicting low income people to remote and precarious locations.





Affected by the construction of Belo Monte Dam protest in Altamira/PA, Brazil. (photo: Joka Madruga/Terra Livre Press)

In addition to that, there has been an increase in the reports of women murdered, rapes, forced prostitution of girls, among other cases.

Currently, there are 23 hydropower dams planned to be constructed in the Brazilian Amazon. The Tapajós Hydropower Complex corresponds to five of these dams. One of them, the São Luiz do Tapajós Hydropower, will become the country's third largest one. Nevertheless, there is no signal of a future implementation of the Free, Prior and Informed Consultation to the indigenous and traditional people that will be affected by this dam.

Aiming to defend themselves from this menace, indigenous people from the Munduruku eth-

nicity – directly affected by the Tapajós Complex – stopped the biologists from Eletrobrás Electric Power Company from proceeding with environmental impact studies in the indigenous territories until the moment in which the tribes were properly consulted and informed. The reaction of the Brazilian federal government was to send National Public Security Force's troops to the region in order to secure the achievement of the dams' environmental impact studies, regardless of the clear violations of indigenous' rights.

The construction of the Tapajós Hydropower Complex signals that the same pattern of human rights violations already taken place in others large scale infrastructure projects will occur

again. As a result of that, there will be an intensification of social conflicts. In an open letter to the Brazilian people, the Munduruku people have already stated its position: "We want to reaffirm that we will not accept these enterprises in our territories and that we will bravely resist for our lives. SaweSaweSawe."

This development model imposed to the Amazon region points to a scenario of violence rise and criminalization against human rights defenders. The posed question is: will the Brazilian state give voice to the local people, starting to consider them rights-holders citizens that must be respected and whose rights must be fulfilled?



Dadá Borari

Odair Borari, also known as Dadá, is the chief of Novo Lugar indigenous villa, in Maró Indigenous Territory, located in Santarém, Western Pará State. Dadá is an important leader in the region, where many indigenous and riverside people live. He has received frequent death threats and has suffered two attacks due to his confrontation and denunciations about the increasing devastation caused by soy monoculture and wood exploitation in the surroundings of indigenous territories. Currently he receives protection from the Human Rights Defenders Protection Programme (PPDDH).

The criminalization of the social protests

The demand for rights was the central theme in the demonstrations that occurred in June 2013 throughout Brazil. Housing, education, transportation and health were the subjects that directly guided the protests against the Executive and Legislative powers.

The repression suffered by the demonstrators was questioned in the Judicial Power. Unfortunately, the judiciary once again contributed to the maintenance and legitimation of human rights violations with answers that clearly did not attend the collective interests and reinforced the criminalization context.

Indeed, the Judicial Power – with an increasing presence in the solution of collective social demands – is, among the three powers, the one with less internal democracy, without dialogue channels or social control.

Moreover, the admission procedures to the judiciary career restrict the entrance to only the white economic elite, keeping it away from the social demands. This condition also contributes to the perpetuation of a not fulfilling human rights panorama through the judiciary system.

Countless examples show the grim effects of this reality. For instance, it is the case of Rafael Braga Vieira: a young afro-descendant cans collector of Rio de Janeiro's streets – the only person in Brazil still in jail due to the June 2013 demonstrations.

In the Amazon city of Al-

tamira (Pará State) it is possible to witness another example of social protests criminalization. The justice there has granted a temporary injunction to Norte Energia consortium in order to ban the Movement of People Affected by Dams (MAB) from accessing any of Belo Monte Dam's surroundings, what includes the new villages to where the affected families were moved.

The company's strategy was to arbitrarily employ the legal instrument called Prohibitory Interdict (Interdito Proibitório) to prevent MAB from conducting demonstrations that aimed to highlight the human rights abuses by the enterprise in the region.

Another legal instrument arbitrarily employed within the

context of mega projects is the Stay of Preliminary Order (Suspensão de Segurança), that empowers the Court's President to halt preliminary decisions in case of serious injuries relating to order, health, security and public economy.

Therefore, disregarding the non-observation of social and environmental mitigation and compensation measures, the companies are authorized to continue with the construction work because the supposed national economic loss would justify the rights violations.

These are only a few of the examples that demonstrate the distance between the social demands and the Judiciary, showing also the urgent need to democratize the latter.



photo: Reuel Almeida /Flickr - CC BY 2.0)

The PPDDH and the Right to Land and Territory in Brazil

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The existence of human rights defenders, as well as the guarantee of their freedom and secure are key elements for a democratic and human rights-based society. In a country such as Brazil, where poverty and inequality are formed, among others, by the rural land ownership concentration, HRDs becomes even more significant – being necessary, therefore, to consider the current agrarian issue in the struggle for human rights.

In this regard, it is required to analyse the agrarian issue through both its former contents and new appearance, in the terms of the so-called economy's reprimarization and the neo-developmentalism as political and economic dimensions of land conflicts and human rights violations in Brazil. When considered the impunity's persistence related to violence against human rights defenders, one should not ignore the institutional block of the justice system in what regards its own fulfilment. It is also necessary to consider the criminalization process directed towards the social movements, as well as the Brazilian judicial culture, which is oriented towards the predominance of property over human rights derived from ways of living linked to the land, the territories, the forests and the waters.

It is within this panorama that the Human Rights Defenders Protection Programme is involved. The PPDDH was created to operate in the boundary between the land conflicts and the

human rights violations of peasants, social movements' militants, indigenous peoples, quilombolas and other traditional communities, they all persistently constituting up to 80% of the public attended by the Programme.

Since the first discussions in the Working Group¹ set up by the Secretariat for Human Rights of the Presidency of the Republic (SDH/PR) in 2003, it started to be developed a protection structure that articulated its actions in three levels: 1) emergencies, with police protection; 2) to fight impunity and violence; 3) to solve the structural causes of the conflict.

Once the agrarian issue carries an extremely high importance in what regards PPDDH's political agenda and targeted public, that third level presents itself as a strategy to mitigate the land conflicts that cause, at the bottom, the violence against human rights defenders. Therefore, the possibilities of institutional mediation are broadened, with the government's land agencies becoming part of the PPDDH's operational strategies through institutional dialogue, creating and sharing information.

Hence, the PPDDH has an important role intermediating the dialogue between institutional segments that traditionally did not consistently address one another – and that also did not share information - in order to fully understand the land problem's complexity in its structural dimension. This set up aims after all to

1 The Working Group was set up aiming to structure and to implement a Protection Programme.

produce an adequate solution to the problem that causes this scenario of rights violations. Thus, the Human Rights Defenders Protection Programme shows itself important also to the extent that represents the intervention, presence and participation of a public institution directly linked to the country's highest political instance – the Secretariat for Human Rights of the Presidency of the Republic (SDH/PR). The SDH/PR was founded with an important focus on power relations that blurred private interests within a public environment – more often with those private interests oriented towards the denial and violation of human rights at the communities' level, where the defenders come out as a personified resistance tackling for rights.

The history of PPDDH has shown that the Programme can not restrict its activities to the emergency and superficial police protection focused on defenders, because it is a situation leaned to a limit. The path covered until now proves that there is space for improvement in the human rights policy and its relation with land policies, justice policies and public security policies. Above all, this same path demonstrates that the potential to an adequate proposition of human rights protection in Brazil is only possible with empowered NGOs, social movements, indigenous peoples, traditional communities, human rights organizations and lawyers advocating public interest law.

Recommendations from the Brazilian Committee of Human Rights Defenders for the strengthening of the Protection Policy

The Brazilian Committee of Human Rights Defenders is an union of NGOs, social movements and human rights defenders from throughout the country. Founded in 2004 with the aim of following the Human Rights Defenders Protection Programme's (PPDDH) implementation, the Committee produces an annual analysis about the Policy's improvements and challenges.

Based on this evaluation, the Committee offers recommendations to the Secretariat for Human Rights of the Presidency of the Republic (SDH/PR), aiming to contribute with the PPDDH's strengthening process. This happens considering the acknowledgement about the initiative's importance in the quest for an effective human rights culture in Brazil.

Examining the last ten years, one must acknowledge the Brazilian state made efforts to implement the protection policy based in the broad concept of human rights defenders, as stated by the United Nations Declaration on Human Rights Defenders.

According to the declaration, the defenders would be "individuals, groups and associations that contribute to the actual eradication of all human rights violations and collective and individual liberties". This concept is endorsed also

by the civil society and reinforced in all the Committee's letters since 2005. However, notwithstanding the efforts to the PPDDH's implementation and the significant improvements experienced since 2005, the Committee has been alerting in the past few years about the PPDDH's political deterioration as a result of the deterioration of the SDH/PR's human rights agenda itself.

Many of the actions that should have been consolidated in this period regarding the PPDDH were abandoned by the Secretariat for Human Rights. Therefore, the Programme reaches its ten years anniversary without having become an effective protection public policy, because it remains without a regulatory framework in order to be institutionalized, and also without a specific and unified operational methodology. In addition to that, as pointed by the 2014 letter, the Programme has constantly faced discontinuity and weakness within its own management.

The National Bill nº 4575/2009, which aims to establish that necessary PPDDH's regulatory framework, has already been approved in all the internal commissions of the Brazilian House of Representatives, remaining since 2011 ready to be voted in the House's main plenary. How-

ever, despite the three urgency requests asking for the voting, the proposal was abandoned by the government. The civil society considers this Bill approval as imperative to the Programme's strengthening. Yet, if the government has not pushed when it had all the favourable conditions, nowadays – with the National Congress' conservative reaction – the approval has become more difficult.

It is noteworthy that, despite the recommendations presented annually by the civil society to the Committee, most of these recommendations have not been acknowledged by the SDH/PR. The Committee has manifested concerns about these government's retreats, precisely in the moment in which the reactionary political opinions have grown.

Thus, the challenge posed for the next years is to avoid the complete dismantle of this Protection Policy and the human rights national agenda, as well as to prevent the strengthening of the reactionary agenda that has gradually emerged throughout the country. These actions can only be achieved if ensured the prevalence of the government's initial efforts, together with the political and social capital accumulated in the past ten years by NGOs and social movements.

Miranda

Being one of the national leaders of the Landless Workers Movement (MST), Antônio de Miranda struggles for the regularization of Herdeiros da Terra 1º de Maio camping site, located in the town of Rio Bonito do Iguaçú, Paraná State. The occupancy is over an extension of land grabbed by Araupel, a logging company that exports wood originated from native forest and reforestation areas.

Due to the latent land conflict, the defender has been receiving constant death threats and harassment since July 2014. Miranda currently integrates the Human Rights Defenders Protection Programme.



photo: Joka Madruga