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**APPENDIX: FINAL DECLARATION OF THE INTERNATIONAL  
CONFERENCE ON THE PROTECTION OF HUMAN RIGHTS DEFENDERS IN  
LATIN AMERICA, BOGOTÁ, 25 MAY 1996**

# BRAZIL

## Human rights defenders: Protecting human rights for everyone

*"All human beings are born free and equal in dignity and rights..."*

Article 1, Universal Declaration of Human Rights

### 1. WHO ARE HUMAN RIGHTS DEFENDERS IN BRAZIL?

Human rights defenders in Brazil come from many different walks of life. Some work by choice with human rights organizations. Others become human rights defenders by accident, because chance has made them a witness to a terrible human rights abuse, and they decide to take a stand and speak out. All Brazilian human rights defenders have one thing in common however: they are vulnerable to death threats, intimidation, and physical assault by police, death squads or hired gunmen operating with official acquiescence. Every year human rights defenders are murdered because they have dared to bear witness and speak up against human rights violations. Seldom are those who threaten and kill defenders brought to justice.

Who might be considered a human rights defender? The term is used very broadly to include anyone who chooses to speak up in defence of the human rights of others. Some are journalists, who investigate, expose and bring human rights violations to public attention in the press, radio and television. Some work with human rights centres and non-governmental organizations which defend the rights of particular groups. They meticulously document violations, report them to the authorities and continue to insist, often over a period of years, that those responsible should be brought to justice. And some are simply witnesses to violations perpetrated against others. In choosing to testify in court, often providing the crucial eye witness testimony for the prosecution, they directly challenge the culture of impunity in Brazil and put themselves at great personal risk. Until very recently, there has been no witness protection program in Brazil to protect these individuals and witnesses have been forced to flee the country, go into hiding or seek official protection, often after receiving death threats.

Other individuals described here as human rights defenders are actually state officials, and include those working in a professional capacity within the criminal justice system. These police officers, defence lawyers, judges, prosecutors and assistant prosecutors (who represent the victims and their family) are all carrying out their professional duties, upholding the law and attempting to bring to justice those responsible for human rights violations. In doing their job, they play a vital role in defending human rights. These state officials have been included in this document because they too have been subject to threats, intimidation and harassment by those within the same criminal justice system who wish to hide behind the current culture of impunity and who seek to shield those who violate human rights. Current mechanisms for investigating violations committed by police are presently wholly inadequate (see **2. Challenging Prejudice and Impunity**). Members of the security forces accused of violations are frequently not removed from active duty, and are at liberty therefore to intimidate those involved in investigations and criminal proceedings against them.

It is notable in many of the cases detailed in this document, that many different kinds of human rights defenders -- lawyers, prosecutors, police, journalists, and human rights activists -- have become involved in collaborating in a joint effort to tackle human rights violations. It is this diverse human rights community in Brazil which has, over several years, raised the profile of human rights in Brazil, and pushed for some of the changes which have occurred over recent years.

The commitment and courage of all human rights defenders are, however, not always recognised as such, particularly when they denounce violations committed against those social groups which are most marginalised, despised and rejected, such as street children, the homeless or common prisoners. Some people in Brazil claim that human rights defenders are merely "*defensores de bandidos*", that is, "defenders of criminals". Sometimes this argument is used by extension to excuse or justify intimidation of, and attacks on, human rights defenders. They are frequently as much the victim of social prejudice as those whom they defend.

Brazilian human rights defenders have been in the front line in upholding the first article of the Universal Declaration of Human Rights: "*All human beings are born free and equal in dignity and human rights*". This report profiles just a few of the many human rights defenders in Brazil whose cases have been taken up by Amnesty International over the last five years. Their stories illustrate vividly the range of human rights violations that continue to occur in Brazil: death squad activity, police killings of civilians, torture in police stations, massacres in prisons, murders of land activists and trade unionists by hired gunmen. The powerlessness of the victims of these violations makes the work of human rights defenders all the more important: often they speak out when others have been brutally silenced.

Almost 50 years after the proclamation of the Universal Declaration of Human Rights, of which Brazil is a signatory, many of its principles are still violated in Brazil. The Brazilian government has committed itself to the protection and promotion of human rights in Brazil in the international arena, by ratifying a number of human rights conventions. On the domestic stage, the 1988 Federal Constitution contains a number of important provisions relating to the guarantee of fundamental human rights. In some areas, Brazil's national legislation offers wide guarantees for the respect of human rights. However, despite the existence of a National Human Rights Program, a National Human Rights Secretariat and a number of promotional programs initiated by the federal government, police violence, death squad activity, torture in detention and many other violations remain a daily reality in Brazil.

Commitments to international human rights declarations, constitutional provisions and national legislation are largely meaningless unless they are implemented and enforced, unless they translate into an improved respect and protection for human rights. It is mainly human rights defenders who, through their work, have attempted to bridge the gap between rhetoric and

reality, who have insisted on respect in practice to the principles to which the Brazilian authorities have committed themselves on paper.

When human rights defenders uphold the rights of one individual or group, they uphold the fundamental rights of everyone, of all of us. They are the men and women on the frontline of the struggle to realise the ideals proclaimed in the Universal Declaration of Human Rights, that all people should be free from "fear and want" Wherever there is persecution and oppression, when human rights are denied or human dignity threatened, when harassed minorities or oppressed people are at risk, defenders strive to protect the weak and hold the powerful to account.

Amnesty International recognises the crucial role that defenders play in the struggle for human rights and dignity in Brazil and around the world, and supports them in their valuable work. For example, in May 1996 Amnesty International convened an international regional conference in Bogotá, Colombia, on the protection of human rights defenders in Latin America and the Caribbean. The final declaration of this conference is attached in an appendix .

## **2. CHALLENGING PREJUDICE AND IMPUNITY**

Human rights are not universally enjoyed or respected in Brazil. The patterns of human rights violations in Brazil, the persistence of violations, and the degree of tolerance towards such violations suggest that to many policemen and members of the general public, some social groups are devoid of rights and may be subjected to any form of degradation, abuse, humiliation and violence. Disdain for society's outcasts contributes to a culture of impunity, as the public has little sympathy when they are killed or hurt unlawfully.

Two young military policemen arrested in Campo Grande, Mato Grosso do Sul, in October 1997, accused of having carried out 11 death squad extrajudicial killings in a two month period, reportedly protested, "We don't kill working people, only tramps and criminals".<sup>1</sup>

In October 1994, a military judge in São Paulo, reduced from 12 to six years the prison sentence handed down to a military policeman for having killed six transvestites in cold blood. The judge allegedly justified his leniency saying that being a transvestite was "a dangerous occupation", thus putting the blame on the victim.

A public opinion survey carried out in September 1997 by Rio de Janeiro's Institute of Religious Studies (ISER), and the independent research institute, the Fundação Getúlio Vargas (FGV) reportedly found that 63.4% of Brazilians surveyed felt that criminals had forfeited their own

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<sup>1</sup> *"Não matamos trabalhadores, somente vagabundos e bandidos"* Correio Brasiliense 4/10/97.

rights because they had failed to respect the rights of others. Some 40% of respondents thought that it was acceptable for the police to use torture to extract confessions from suspects, and the same number thought that lynchings of suspected offenders were wrong but understandable.

The work of human rights defenders is vital in upholding the value of human rights across the board, from the prevention of violations, to the final stage of bringing to justice those who do commit violations. The rest of this document outlines the different ways in which human rights are promoted, protected and defended. Defenders who work with vulnerable groups carry out invaluable promotional work, protecting the rights of individuals or groups whom the wider society considers to have no rights. Those who work with children, common prisoners and other marginalised groups can be key in helping to protect those groups from possible abuse by police and vigilantes. When violations do occur, for example when a death squad or contract killers are active in an area, often with official acquiescence, it is frequently left to local human rights activists to report and condemn these violations and call for official investigations. Often official investigations are inadequate or shoddy, or not made public. The media can play a vital role in exposing human rights violations, engaging in investigative journalism and pressing for full, impartial and public inquiries. Even when a case reaches the hands of the police and the courts, those involved in investigating, prosecuting and judging a human rights violations are not immune from threats and intimidation.

But who defends the defenders when *they* in turn become the subject of threats and attacks? The state mechanisms for protecting human rights defenders are still wholly inadequate in Brazil. Many witnesses at risk fail to receive protection or must turn to local human rights non-governmental organizations (NGOs) for help. Federal police have on several occasions provided police protection to witnesses and to local human rights defenders at risk. A witness protection scheme has been piloted in one Brazilian state, and now extended to a total of five. There is still no federal witness protection scheme in operation, although the government introduced draft legislation into Congress in September 1997. It is imperative that a well-resourced and effective witness protection program be established soon at federal level to complement existing state initiatives.

The role of human rights defenders is particularly important in Brazil because of the structural problems in the police and criminal justice system which tend to perpetuate impunity. The government of President Fernando Henrique Cardoso has made a number of significant advances in the past three years. However, these measures have not yet been effective in reducing the level of violations overall and in ending what the Inter-American Commission on Human Rights (IACHR) in a recent report called "institutionalised impunity".<sup>2</sup> In May 1996, the

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<sup>2</sup> Inter-American Commission on Human Rights *Report on the Situation of Human Rights in Brazil* Organization of American States, Chapter XI "Final conclusions and general recommendations", point 7, p. 156

President launched an ambitious National Human Rights Program, and in May 1997 established a National Human Rights Secretariat within the Ministry of Justice. Since 1996 the federal government has recognised the work of human rights defenders with an annual prize presented on International Human Rights Day, 10 December. However, despite the government's stated commitment to human rights, structural reform has been slow and partial.

Amnesty International has documented violations by all the security forces in Brazil without exception: the Federal Police, the state military and civil police and the Municipal Guard, where they exist. Police accused of grave human rights violations are rarely suspended from active duty pending investigations. This omission, which is in violation of the United Nations Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, has resulted in human rights defenders and witnesses being intimidated and even killed, by the accused and their allies. It is very often the persistence of local human rights defenders which prevents investigations into human rights violations by state agents being terminated inconclusively or shelved, and ending in impunity.

There is still no mechanism in Brazil to ensure that violations committed by the security forces are investigated by a body other than that accused of involvement in the violations. The potential therefore for cover-ups, botched investigations, and intimidation of human rights defenders is still very high. At the end of 1996 jurisdiction for intentional homicide by on-duty military police was transferred from military to civilian courts.<sup>3</sup> However, the military retain responsibility both for investigating these crimes and for determining intentionality. The maintenance of special Military Courts for the military police is a relic of the period of military government (1964-1985), and the IACHR has noted<sup>4</sup> that "the courts tend to be indulgent with police accused, of human rights abuses and other criminal offences, thereby allowing the guilty to go unpunished". The IACHR goes on to link this structural flaw to human rights violations and intimidation of human rights defenders:

"In this climate of impunity, which breeds violence by the "military" police corps, the police officers involved in this type of activity are encouraged to participate in extrajudicial executions, to abuse detainees and to engage in other types of criminal activity. The violence has even spread to the prosecutors who, when they insist on continuing investigations into the crime committed by the "military" police, have been

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<sup>3</sup> The state military police are responsible for prevention of crime, law-and-order, and policing the streets. The state civil police are responsible for carrying out police investigations into crimes.

<sup>4</sup> *ibid* p. 41

threatened and even subjected to death threats. It is also not uncommon for witnesses summoned to testify against officers on trial to receive intimidating threats."<sup>5</sup>

Another recurrent problem in fighting impunity is the federal structure of the Brazilian state and the organization of policing, and of the justice system. The bulk of policing, carried out by the civil and military police, falls under the aegis of the state authorities, as do investigations into alleged human rights violations by those bodies. However, Amnesty International has documented many cases in which the state authorities have shown themselves unwilling or unable to carry out a full and impartial investigation, or to guarantee the safety of witnesses and human rights defenders. Federal authorities at present may mount only a parallel investigation without full powers. Whilst extensive reform of the police and judicial system is being debated, it is crucial that the federal authorities should have powers to intervene to take over investigations where there are doubts about the impartiality and competence of the state authorities. There is currently a government-sponsored Constitutional Amendment to that effect awaiting debate and approval in Congress.

### **3. TAKING ON THE DEATH SQUADS: Human rights activists**

*"Everyone has the right to life, liberty and security of person"*

Article 3, Universal Declaration of Human Rights

Human rights activists in Mato Grosso do Sul, **Giselle Marques de Carvalho Fontoura**, **Adenilso dos Santos Assunção** and other staff members of the human rights centre *Centro de Defesa dos Direitos Humanos Marçal de Souza Tupã-y* began receiving death threats in October 1997 after the discovery of a clandestine cemetery possibly containing the remains of death squad victims, allegedly killed by policemen from the *Departamento de Operações de Fronteira*, (DOF), Frontier Operations Department. Adenilso dos Santos Assunção researched the killing and "disappearance" of 276 people in the state in 1996 and 1997. His report, presented to the Ministry of Justice in August 1997 contains evidence of the involvement of both civil and military police. In response to the report, a delegation from the Human Rights Commission of the Federal Chamber of Deputies visited the region on 23 October 1997. On that occasion Giselle Marques de Carvalho Fontoura received an anonymous telephone call about the secret cemetery. Cars with unknown occupants began circling her house and parked outside her front gate.

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<sup>5</sup> *ibid* p. 42

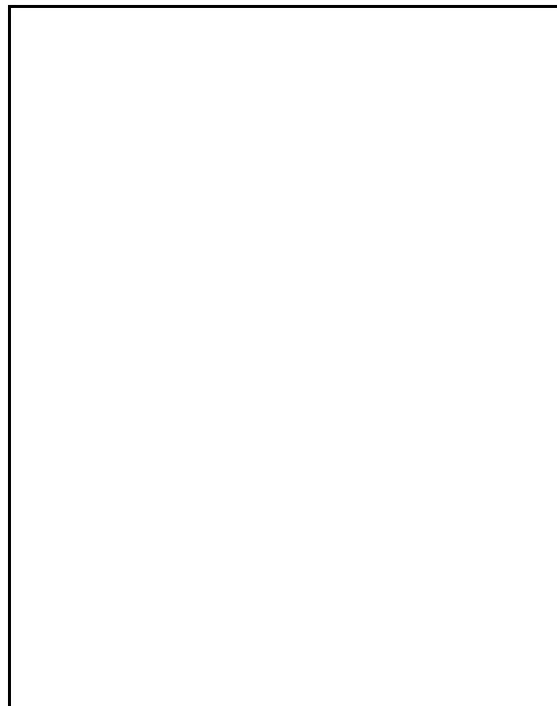
The cost has been very high for human rights activists in Rio Grande do Norte state attempting to unmask a local death squad. One activist was shot dead on his doorstep, and another has had to flee to another part of the country for fear for his life.

**Francisco Gilson Nogueira de Carvalho**, a lawyer at the *Centro de Direitos Humanos e Memória Popular* (CDHMP) Centre for Human Rights and Collective Memory in Natal, the State Capital, was shot dead by six men outside his house on 20 October 1996. He was killed by 13 bullets, most of them to the head. He had been working with a special commission set up by the state attorney general in May 1995 to investigate the activities of the *Meninos de Ouro* (Golden Boys), a death squad believed to be responsible for numerous killings, as well as cases of torture and death threats, carried out mainly in poor areas of Natal. Since 1995, allegations had been repeatedly made that the death squad

operated under the auspices of the Deputy Secretary for Public Security. Francisco Gilson Nogueira de Carvalho's killers have never been found. An official investigation was closed "due to lack of evidence" in 1997.

Since his death his colleagues in the CDHMP have suffered intimidation and harassment as they have attempted to investigate his murder and the activities of the *Meninos de Ouro*. A "death list" was discovered in which CDHMP staff and several state officials were named. The state Attorney General and six state prosecutors, allegedly named on the list, had to suspend their investigations. **Luis Gonzaga Dantas**, a member of the CDHMP, received federal police protection for several months. He was eventually forced to leave his home to guarantee his and his family's safety.

In Rio de Janeiro survivors and relatives of victims set up a community centre, the *Casa da Paz* (House of Peace), in the wake of the Vigário Geral massacre of August 1993 in which 21 residents of a shanty town were killed by off-duty military police. The centre was established on the site of a home in which eight members of a family of evangelical Christians had been slaughtered. The coordinator of the centre, **Caio Ferraz**, was subject to such intense police intimidation that he was forced to leave the country and apply for asylum in another country. He



Francisco Gilson Nogueira de Carvalho  
©Centre for Human Rights and Collective Memory

received anonymous telephone threats and was followed and stopped by two cars. He was the first recipient of Brazil's annual Human Rights Prize. Two public prosecutors, **Mauricio Assayag** and **José Muños Piñeiro**, and a judge, **Maria Lúcia Capiberibe**, all from the Second Criminal Court (*II Tribunal do Júri*) began receiving increasingly frequent death threats in relations to their work on the case in July 1995.

The SDLC, *Scuderie Detetive le Cocq*, is a police organization based in Rio de Janeiro, with branches in the states of Espírito Santo and Minas Gerais. Federal and civil police investigations into the SDLC suggest that members of the organization have been carrying out death squad killings of street children (including that of **Jean Alves da Cunha** -- see 4a below), rural activists, human rights defenders and others in the region. Founded in 1964 and named after a murdered Rio de Janeiro police detective, the SDLC's legal statutes describe it as a non-profit-making benevolent and philanthropic civic association. In 1991, a special investigative commission with federal involvement was established to investigate the organization, whose associates include police officers, members of the judiciary and local politicians. In 1995, the Commission presented the Minister of Justice with a 5,000 page dossier of evidence related to dozens of crimes allegedly committed by the SDLC. The Federal Prosecution Service has filed a legal petition to have the SDLC disbanded due to its alleged criminal, terrorist and para-military characteristics which contravene articles of the 1988 Constitution. Court hearings were concluded in late 1997, but the judge has not yet given his verdict on the petition.

Several people have endured harassment and threats while investigating the activities of the SDLC, *Scuderie Detetive le Cocq*, a police organization in Espírito Santo, elements of which allegedly operate along the lines of a death squad, and have attempted to block investigations and trials. In all cases involving members of the SDLC, witnesses have been intimidated and killed, including members of the SDLC itself. On 10 December 1996, five individuals were awarded the National Human Rights Prize by the federal government for their work on exposing the SDLC: journalist **Nelson Gomes**, civil police detective, **Francisco Vicente Badenes Júnior**, state prosecutor **Luiz Renato da Silveira**, judge **Dr Magda Lugon** (who issued the search warrant allowing police to search the SDLC's premises) and a lawyer working with the local human rights movement, **Dr Osmar Barcellos**, (see under **6. Telling the truth**, **7. Policing the Police**, and **8. Ensuring Justice** below).

The Human Rights Commission of the Brazilian federal Chamber of Deputies is currently monitoring death squad activity in at least nine of the 26 states: Rio Grande do Norte, Mato Grosso do Sul, Pará, Bahia, Mato Grosso, Amazonas, Rio de Janeiro and São Paulo. Death squads (*grupos de extermínio*) operate either with the direct participation of local police, or with their acquiescence. They often enjoy the protection of powerful allies. Death squads may be involved in drug trafficking, gambling and smuggling. Very often their victims are petty criminals, people who simply "got in the way", or members of social groups which they consider "undesirable" such as street children and the homeless.

#### **4. DEFENDING THE DEFENCELESS**

Some human rights defenders are advocates for the rights of particular social groups, often very vulnerable or powerless groups, such as the indigenous population or common prisoners. They play a vital role of providing a voice for the voiceless, of speaking up for those least able to defend themselves. The work of trade unionists, grassroots NGO workers, and church workers in standing up for the rights of others often makes them the victims too.

##### **A. PROTECTING STREET CHILDREN**

*"All children... shall enjoy the same social protection"*

Article 25, Universal Declaration of Human Rights

**Fernando James Neves**, a student, was working voluntarily as a street educator with a Rio de Janeiro children's charity, the *Associação São Martinho*, when he was shot dead by military police on 14 August 1994. According to eye witnesses, he was shot outside the door of his home in Engenho Novo, by a military policeman travelling in a car. He died within a hour of gunshot wounds. It is also claimed that the police car had followed him on his way home before he was shot. The police claimed that he had been caught in crossfire between police and a gang of criminals. They also removed his body to a local hospital, although he was already dead, and removed spent bullet cartridges from the area, thus making a reconstruction of the true circumstances of his death very difficult. An official autopsy concluded that he had been shot by a rifle used exclusively by the military police, that he had not been caught in crossfire, and

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that one of the bullets went straight through his chest, and another travelled through his body from his groin to his right shoulder.

On 12 December 1993 street educators from the Catholic Church's Children's Pastoral, **Jonas Beltrão de Oliveira** and **Jonathan Luke Hannay**, attempted to mediate in a confrontation between police and street children in the Praça da Sé, in São Paulo. Police started beating a 16 year old girl and an 11 year old child. A policeman then allegedly hit Jonathan Hannay in the stomach. A number of local street traders then started beating up Jonas Beltrão, while police did nothing. He was left semi-conscious with a cranial fracture and perforated eardrum. After the incident they both continued to suffer police harassment.<sup>6</sup>

A number of members of the *Movimento Nacional dos Meninos e Meninas da Rua* (MNMMR) National Street Children's Movement, have also found themselves targets of death squad violence. On 5 December 1995 two members of the MNMMR, **Edson dos Santos Turiano** (19) and **José da Silva** (21) were reportedly shot dead in the metropolitan region of Recife in Pernambuco on the same day that President Fernando Henrique Cardoso awarded the MNMMR a national prize for its work in defending human rights. José da Silva had given testimony to a federal congress parliamentary investigation into killings of street children in 1991-92. According to witnesses, the two were apparently abducted from a friend's home by a group of hooded, armed men who said they were police officers. Their bodies were found five hours later by the side of the PE-22 highway, 15 kilometres away, with multiple gunshot wounds. Amnesty International has no information regarding an investigation or prosecution in this case.

On 13 November 1992 the body of 13 year old **Jean Alves da Cunha**, a leader of the MNMMR, was found dumped on a hillside in Vitória, Espírito Santo state, with gunshot wounds to the head and ear. He was last seen on the evening of 11 November, being detained by members of justice officials attached to the juvenile courts (*Comisários da Justiça da Criança e do Adolescente*). He was about to attend the Third National Congress of the MNMMR in Brasília and at a preparatory meeting he had denounced the local police for putting pressure on street children to commit crimes and share the proceeds with them. He taped the allegations and expressed fear for his safety. His death has since been linked to a number of similar death squad killings allegedly committed by a police organization in the area, the SDLC (see above under **3. Taking on the Death Squads** and **8. Ensuring Justice**). Military police accused of his murder were acquitted in a military court in May 1997. The state prosecution service (*Ministério Público*) is attempting to get the ruling annulled and to argue for a re-trial, on the

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<sup>6</sup> UA 433/93 (AMR 19/37/93) and update AMR 19/01/94.

basis that the case should have been heard originally in a civilian court, according to current legislation.<sup>7</sup>

Street children are some of the most vulnerable members of society in Brazil. The massacre by off-duty military police of eight street children and one young adult sleeping outside the Candelária church in Rio de Janeiro in July 1993 caused international outrage (see **5. Bearing Witness**). Street educators, many with the Catholic Church's Children's Pastoral (*Pastoral do Menor*), visit groups of children sleeping in the streets and work with them to provide alternatives to crime and glue-sniffing. The educators are often the only people able to prevent, witness or report assaults on street children by uniformed police or their abduction by vigilante death squads. Local traders and police are often hostile to the educators, associating them with the crimes committed by the street children themselves. Those who work with street children are upholding the provisions of the United Nations Convention on the Rights of the Child, which was ratified by Brazil in 1990. Article 227 of the 1988 Federal Constitution states "*It is the duty of the family, of society and of the State to ensure, as an absolute priority, that children and adolescents have the right to life..... as well as the right to be kept safe from any form of negligence, discrimination, exploitation, violence, cruelty and oppression.*"

## **B. SPEAKING UP FOR SEXUAL MINORITIES**

*"Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind."* Article 2, Universal Declaration of Human Rights

**Claudio Orlando dos Santos**, a gay man and AIDS activist from Santa Catarina state in southern Brazil, was beaten by military police on 24 May 1994 while he was doing HIV prevention work on the streets. As a result of his injuries he was admitted to hospital where

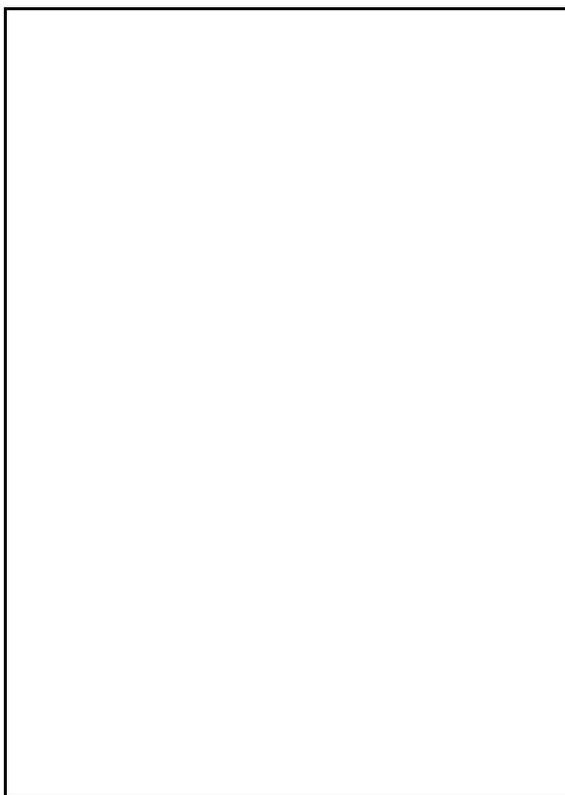
he later died. He himself was developing full-blown AIDS and was the President of the Florianópolis Association for the Defence of Homosexual Rights.

That night he was distributing condoms to transvestite prostitutes on behalf of the Santa Catarina health authority. At 9pm the military police arrived and the transvestites fled. The police beat

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<sup>7</sup> UA 368/92 AMR (19/31/92).

him with truncheons and kicked him. After he lost consciousness he was handcuffed and taken, in the boot of a police car, to a civil police station where he was again beaten and insulted by military police in presence of a civil police officer. He was later admitted to hospital with severe gastroenteritis, possibly brought on, in Amnesty International's opinion, by the trauma of his ill-treatment. The military police investigation was closed because of lack of evidence and no police officer was ever charged or brought to trial.<sup>8</sup>



Marcelo Nascimento, Alagoas Gay Group President.

**Marcelo Nascimento**, President of the Alagoas Gay Group (*Grupo Gay de Alagoas*) and **Pedro Montenegro**, of the Alagoas Forum against Violence (*Fórum Permanente Contra Violência*) both had to receive military police protection in June 1997 after they began demanding an official investigation into police killings of a transvestite and two gay men. On 6 June 1997 the transvestite and gay men, who were working as prostitutes in Maceió, the capital of Alagoas state, were shot dead, allegedly by civil police who had been running a protection racket among the prostitutes. It is believed that the prostitutes were killed because they had not paid their nightly "fee" of US\$10. On 10 June 1997 three other transvestites were arrested, also for failing to pay their "fee". They were taken to the 2nd Precinct of the Civil Police where they were beaten all over with rubber sandals studded with nails. When Marcelo Nascimento and Pedro Montenegro called for an inquiry into these incidents they received anonymous telephone calls on 18 June warning them to

drop their investigations or they themselves would be killed.<sup>9</sup> No-one has been charged to date with making the death threats.

<sup>8</sup> Amnesty International *Brazil: Police brutality against AIDS awareness activist* AMR 19/31/97 December 1997

<sup>9</sup> UA 236/97 AMR 19/19/97 and AI Index ACT 30/04/97 "Pedro Montenegro and Marcelo Nascimento: Death threats for denouncing killings of homosexuals"

There is no legal discrimination on the basis of sexual orientation in Brazil. At the moment two bills are under discussion in Congress to explicitly prohibit discrimination on the basis of sexual orientation, and to establish equality of treatment for same-sex couples. Amnesty International and local NGOs have however received numerous reports of murders, particularly of gay men and transvestites, many of whom are prostitutes. It is not known how many killings are carried out by police or death squads, due to lack of police monitoring and investigation. Very few cases result in a prosecution.

### C. ADVOCATING ON BEHALF OF COMMON PRISONERS

*"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment"* Article 5, Universal Declaration of Human Rights

In August 1995, three public prosecutors at the Military Courts of São Paulo state, **Stella Kuhlman, Franco Caneva** and **Fernando César Nucci**, received death threats related to their investigations into a prison massacre and other crimes committed by members of the military police, particularly the elite battalion known as ROTA (*Rondas Intensivas Tobias de Aguiar*). The threats were also reportedly related to the prosecutors' public statements in favour of transferring the jurisdiction over certain human rights crimes from military to civilian courts. On 2 October 1992, a rebellion erupted in one of São Paulo's largest prisons, the *Casa de Detenção*. Shock troops were sent in to quell the rebellion and, when they withdrew 11 hours later, 111 inmates were dead. Eight separate inquiries into the massacre confirmed that most prisoners had been killed by police while defenceless in their cells. The military justice prosecutor charged 120 military police with homicide, attempted homicide and bodily harm, describing the massacre as "the largest slaughter recorded to date in a single prison in the world [where] detainees' prison sentences were arbitrarily and illicitly turned into death sentences."<sup>10</sup> (See under **8. Ensuring Justice**)

Two women, taken hostage by a group of common prisoners during a prison rebellion in Ceará state in December 1997, have put their own lives at risk by publicly accusing the military police of unlawfully killing seven escaped prisoners after they had surrendered. On 24 December 1997,

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<sup>10</sup> Amnesty International *Brazil: "Death has arrived" Prison massacre at the Casa de Detenção, São Paulo* AMR 19/08/93.

23 prisoners started a rebellion in the Paulo Sarasate jail in the greater Fortaleza area, the capital of Ceará state. Prisoners took four hostages, including **Eunisia Barroso**, coordinator of the Catholic Church's Prison Pastoral (*Pastoral Carcerária*) and **Maria Nilva Alves**, head of a charity that works with prisoners. During an initial confrontation with military police, one prisoner was hit in the head and died. The prisoners demanded four getaway cars and guns. Shortly after leaving the prison, taking the hostages with them, one car crashed into a tree killing one prisoner. Another developed mechanical faults and eventually stopped. According to the two women hostages, six prisoners were extrajudicially executed after surrendering. Eunisia Barroso was reportedly shot by a police bullet after she had shouted at the police not to shoot, that there were hostages in the car, and that the prisoners were surrendering. After both women testified to an official inquiry that police had killed the prisoners unlawfully, Eunisia Barroso reportedly began receiving anonymous telephone death threats and was forced to move to a safe location. A civil police inquiry is continuing into the incident.

Common prisoners are the truly forgotten victims of human rights violations in Brazil. Prisoners endure harsh conditions and treatment, for example, up to 500% overcrowding, routine recourse by guards to violence and torture, poor sanitary conditions, and frequent denial of access to medical care, even for prisoners who are paraplegic or who are dying of terminal illnesses. Prison riots, breakouts and hostage-taking incidents are frequent, in part as a result of such terrible conditions of detention. On several occasions state military police have responded by carrying out extrajudicial executions of prisoners. Prisoners depend heavily on local human rights NGOs to monitor prison conditions and to protest on their behalf to the authorities.

#### **D. UPHOLDING INDIGENOUS RIGHTS**

Amnesty International continues to receive reports of human rights violations against indigenous people in Brazil in the context of disputes over land rights. The perpetrators, which include gold miners, loggers and hired gunmen, enjoy almost complete impunity. Amnesty International believes that the failure of the government to arbitrate promptly in disputes between the indigenous and non-indigenous community leaves the former vulnerable to violence against them. Violent incidents have reportedly increased following the issuing of the controversial Decree No. 1775 in 1996 which changed procedures for demarcating indigenous land. According to the Church Indigenous Missionary Committee (CIMI), invasions of indigenous lands increased by 95% in 1996, and acts of genocide, torture, death threats, abduction and illegal coercion continued to go largely unpunished.

On 16 November 1996 a Katithauru Indian village was attacked by a group of loggers. Indians were tied up and beaten, and the village looted. Although the attackers were identified by the Indians, they were not arrested and continue to intimidate the community. On 30 November **Arivaldo José dos Santos**, a field worker and district supervisor for the Brazilian government's indigenous agency, FUNAI, and **Sebastião Moreira**, of the Catholic Church's indigenous rights body, CIMI, called for the withdrawal of the land invaders from the area, and both received anonymous telephone death threats. Police protection was requested but not supplied.<sup>11</sup>

Guarani Indian leader **Marçal Tupa-Y de Souza Guarani** was assassinated on 25 November 1983 by two gunmen while at work in a clinic on the Campestre Indian reserve in the municipality of Antônio João, Mato Grosso do Sul state. He had been campaigning for the official demarcation of land for the neighbouring Kaiowá reserve of Pirakua, which was disputed by a local estate owner, and had allegedly received death threats. He was also known nationally and internationally for his defence of Indian rights, and met Pope John Paul II in 1980 on behalf of the indigenous people to bring to public attention attacks on Indians and their lands. It took over three years for the federal authorities to accept competence for investigating the case. Pre-trial hearings did not begin until six years after the killing and in the meantime crucial material evidence had mysteriously disappeared. The manager of the estate was charged but absconded from custody. The accused in the case was tried and acquitted, but the acquittal overturned in 1996.

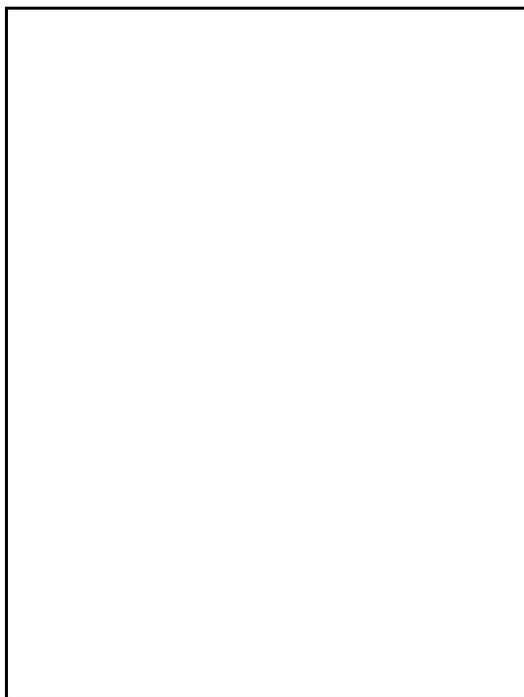
## **E. CAMPAIGNING ON LAND AND ENVIRONMENT**

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<sup>11</sup> UA 284/96 AMR 19/34/96.

*"Everyone has the right to freedom of peaceful assembly and association"*

Article 20, Universal Declaration of Human Rights



Francisco "Chico" Mendes  
©Charles Clover (Daily Telegraph)

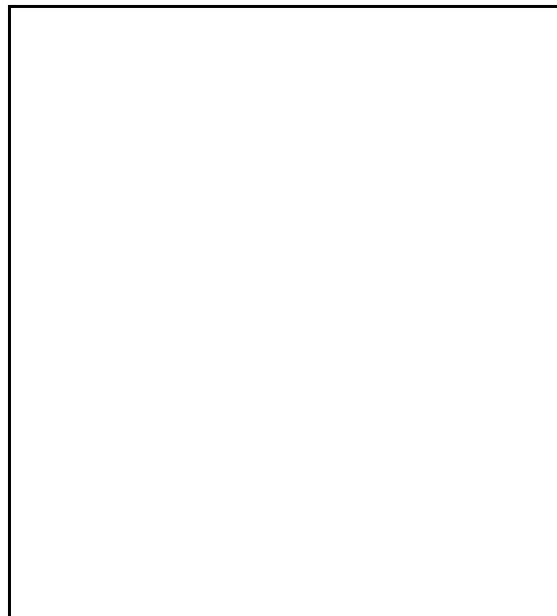
Perhaps the most internationally well-known rural human rights defender in Brazil is **Francisco "Chico" Mendes** who was murdered by a hired gunman in December 1988 at his home in Xapurí, Acre state, because of his work as president of the rubber-tappers union defending the Amazon forest. Two men were convicted of his murder in 1990, but escaped from the state prison in 1993. They were eventually re-arrested in 1996 by federal police and transferred to a secure prison in Brasília.

In September 1995, **Antônio Macedo de Batista**, another rubber tapper and campaigner for the rights of rubber tappers and indigenous people in the Alto Juruá region of Acre state, was considered by Amnesty International to be a prisoner of conscience. He was originally convicted in June 1992 for "inciting rubber tappers to disobey an eviction order." After a number of legal proceedings he was arrested and began serving a sixteen-month prison

sentence on 20 September 1995. The charges related to an incident in June 1991 when rubber tappers from the community of Riozinho Cruzeiro do Vale failed to obey an eviction order issued by the courts on behalf of a rubber and logging company claiming land that the rubber tappers had worked on for 29 years. The rubber tappers simply refused to move and reportedly used no violence. Since the company had no legal title to the land in question, it later abandoned its claim. Amnesty International believes that Antônio Macedo's imprisonment was solely related to his peaceful activities promoting rubber tappers associations and cooperatives in the region. He was subsequently released.

Criminal charges and court orders have been used elsewhere in Brazil to curtail the activities of agrarian reform and land activists. What appear to be politically motivated charges and preventive detention orders have been issued against land reform activists and

members of the *Movimento dos Trabalhadores Sem Terra* (MST) Landless Rural Workers Movement, in Brazil On 10 June 1997, **José Rainha Júnior**, one of the leaders of the MST, was found guilty on a charge of double homicide and sentenced to 26 years in prison in a trial which did not meet international fair trial standards. There is compelling evidence that he was falsely convicted of having orchestrated the murder of a local landowner and a policeman in Pedro Canário, Espírito Santo state. Amnesty International believes that he was convicted on the basis of his activism in the MST in organizing land invasions rather than on the basis of the evidence presented. If the guilty verdict is upheld at the second trial under similar circumstances, and José Rainha is imprisoned, he will be adopted by Amnesty International as a prisoner of conscience.<sup>12</sup> His retrial is currently scheduled for the first half of 1998, and the trial location has been changed to Vitória, the state capital, where the impartiality of the jury may be better guaranteed, following appeals by Brazilian human rights groups and by Amnesty International.



José Rainha Júnior, Landless Rural Workers Movement (MST) ©Douglas Mansur

For several years, José Rainha and other MST leaders in the Pontal de Paranapanema region of São Paulo state have also been subjected to police and judicial harassment. They have been formally charged with two crimes, *esbulho possessório* (the violent seizure of land belonging to another) and *formação de quadrilha ou bando* (the forming of a criminal gang) in relation to the MST activities in organizing land occupations. José Rainha was found guilty on these charges in September 1997 but the defence lawyers have lodged an appeal. They were also the subject of three preventive detention orders issued over in 1996 and 1997 in relation to the above charges. All were ruled unconstitutional and overturned by Brazil's Higher Court of Justice (*Superior Tribunal de Justiça*). MST members were imprisoned under each preventive detention order. On 25 January 1996 four members of the MST, including José Rainha's wife **Diolinda Alves da Silva** were arrested and imprisoned under the second of these detention orders. She was adopted as a prisoner of conscience in March 1996 because Amnesty International believed that she had been falsely accused and her arrest had been intended to

<sup>12</sup> Under Brazilian law, anyone receiving a sentence of over 20 years imprisonment automatically receives a second trial, the result of which stands, subject to appeal.

pressurise the MST to cease its land occupations and to persuade her husband, who was in hiding, to give himself up for arrest. She was released shortly afterwards.

*"No one shall be held in slavery or servitude. Slavery and the slave trade shall be prohibited in all their forms"* Article 4, Universal Declaration of Human Rights

In September 1997, 220 workers, including minors, were freed by federal authorities from the Flor da Mata ranch in São Felix do Xingu in southern Pará state where they were being held under armed guard in conditions of effective slavery (debt bondage). The federal government has since expropriated the 22,000 acre ranch for agrarian reform in a first much-publicised move to punish landowners who use slave labour. The government only discovered about conditions on the estate after a 16-year old boy, **Sebastião Luiz Paulino**, escaped from the ranch in August, informed official federal police and the Ministry of Labour and helped them carry out the raid. He is also a vital witness in the expropriation proceedings. However, on 7 October 1997 he narrowly escaped an attempt on his life by a hired gunman. He had to receive protection from a local human rights group, after the federal government failed to provide protection.

Brazil has one of the most unequal patterns of land distribution in the world. Land is concentrated in the hands of a small number of very large landowners (*fazendeiros*). Many violations of human rights take place in the countryside, for example, contract killings of rural trade unionists and activists, violent police evictions of landless peasants during occupations and demonstrations, the use of slave, forced and child labour on plantations, quarries and charcoal burners, and the attacks on indigenous populations by other groups attempting to seize their lands. Local powerful landowners hire gunmen to assassinate rural trade union leaders, collaborate with the police in evicting peasants and have now increasingly begun to persuade the local judiciary to use legal measures to harass land activists. Since the return to civilian government in 1985, the only individuals which Amnesty International has considered to be prisoners of conscience, or potential prisoners of conscience, have been land rights activists (see the cases here of **Antônio Macedo de Batista**, **Diolinda Alves de Souza**, **José Rainha Júnior** and **Frei Anastácio Ribeiro**).

**Dona Pureza Lopes Loiola** of Bacaba, Maranhão state, began campaigning against the use of slave labour in Brazil over three years ago after her son "disappeared" when he left home to go and work on an estate. She had already lost one brother and two cousins the same way. With the assistance of the Catholic Church's Land Pastoral (*Comissão Pastoral da Terra*), she travelled from farm to farm investigating, lobbying the government and bringing the issue to

public attention. In October 1997 she was awarded an international human rights prize by Anti-Slavery International, a London-based NGO, in recognition of her courageous work.

## F. CHURCH WORKERS

On the evening of 13 April 1993, **Father Pedro Horácio Caballero**, a street educator working with children in the Praça da Sé, a square in downtown São Paulo, saw two military police beating up a 12 year old boy. When the priest attempted to stop the beating he was accused of "protecting delinquents". A child whom he sent to go and fetch another street educator was grabbed by the police, thrown to the ground and beaten with truncheons. The police then attempted to handcuff Father Caballero, and beat him up. Father Caballero reported the incident. He now lives and works in Luanda in Angola.<sup>13</sup>

Another Catholic priest, **Father Ricardo Rezende**, who also received the Anti-Slavery International prize in 1992 for his work in combatting debt bondage and slavery in southeastern Pará state, suffered an assassination attempt and was eventually forced to move to another part of the country for his own safety. In September 1994, a "hit-list" was reportedly discovered containing the names of some 40 people in the town of Xinguara. According to evidence given by *pistoleiros*



Father Ricardo Rezende with Amnesty International's Secretary General, Pierre Sané

(gunmen) already charged in connection with related incidents, those names on the list were singled out to be killed because of their links with *posseiros* (peasant farmers) involved in land conflicts. The names of Father Ricardo Rezende, two other priests - **Brother Henri des Rosiers** and **Father Benedito Rodrigues Costa**, as well as a local city councillor, **Elpídio Pereira da Silva**, were alleged to be on the list. Two of the men accused of the death threats received custodial sentences in December 1995 for the attempted murder of another man. In

<sup>13</sup> UA 123/93 (AMR 19/15/93).

the past, church workers seen to be supporting or representing the interests of peasant families in southern Pará, in the context of land disputes with local landowners, have also been the targets of death threats, assaults, abductions and killing.

Several of the human rights defenders mentioned in this section are nuns, priests and workers from the Catholic Church. The work of clergy from both Catholic and protestant churches with the poor and socially marginalised groups puts them on the front line of human rights. The Catholic church has actively defended human rights in Brazil especially during the military government, when it denounced "disappearances" and killings of political opponents by the authorities. Later it set up a number of pastoral commissions, to carry out social work and advocacy with a number of social groups whose rights were being systematically denied, such as trade unionists, common prisoners, the homeless, impoverished rural workers, street children, and the indigenous population. They often suffer the same fate as those they seek to help and protect, as a result of their vocation.

In other parts of the country, church workers have been subject to harassment at the hands of local courts as a result of their work on land reform. In October 1996, Amnesty International took up the case of **Frei Anastácio Ribeiro**, a Franciscan priest sentenced to nearly five years imprisonment on charges related to his peaceful activities in campaigning for land reform. He was detained on 27 November 1995 in the municipality of Conde in the northeastern state of Paraíba in connection with the occupation by 300 landless rural workers of the Fazenda Jacumã e Tabatinga. He is the state coordinator of the Church Land Pastoral (*Comissão Pastoral da Terra*), a Roman Catholic church organization established in 1975 to monitor land conflicts and encourage priests and lay workers to help the rural poor. Frei Anastácio Ribeiro was charged with the same criminal charges used against the MST leaders (see above), those of *esbulho possessório* and *formação de quadrilha*, and with ill-treating children by exposing them to insalubrious conditions in land encampments. The judge held him responsible on these charges due to his CPT work, even though he had not been present at the occupation. The judge described the CPT as a "clandestine organization".<sup>14</sup> Frei Anastácio Ribeiro continues to face similar criminal charges in eight judicial districts in the area.

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<sup>14</sup> Amnesty International *Brazil: The criminalization of rural activism: The case of Frei Anastácio Ribeiro* AI Index: AMR 19/27/96.

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## 5. BEARING WITNESS: Witnesses and relatives

In July 1993, lawyers in GAJOP (*Gabinete de Apoio Jurídico às Organizações Populares*) Legal Support Office for Grassroots Organizations, **Jayme Benvenuto de Lima Jr**, **Valdenia Brito** and **Kátia Costa Pereira** began receiving death threats after they had denounced several cases of corruption with the state judiciary. On 23 July when driving home, **Jayme Benvenuto de Lima Jr**, coordinator of GAJOP, was ambushed by two unidentified persons travelling in a car, one of whom threatened him with a gun and ordered him to step out of his car. When he crouched down in his car, the other car made a u-turn and one of its occupants shot at him from 10 metres away. Luckily he was unhurt.<sup>15</sup> It was the GAJOP lawyers who later piloted Brazil's first witness protection program.

**Wagner dos Santos** is the only adult witness to the Candelária massacre of 23 July 1993 in which seven street children and one young adult were killed by military police in Rio de Janeiro. He has suffered two attempts on his life, and had to move to another country as a result of his decision to testify. Although several eye-witnesses came forward after the massacre, by the time the first of the accused came to trial, only 22-year old **Wagner dos Santos** was prepared to testify. He was taken off in a car during the massacre, shot, and left for dead. He suffered a further attempt on his life in December 1994. He was abducted by a group of plainclothes policemen near the Witnesses' House (*Casa da Testemunha*), a safe house where he was living under police protection. The police handcuffed him and took him near to Rio de Janeiro's main railway station. After beating him, they shot him several times and left him for dead. They allegedly made it clear they were shooting him for having identified their colleagues in the 1993 killings. The case of **Wagner dos Santos** vividly highlighted the need for effective witness protection in Brazil. He was under police protection at the time of the second attack protection, yet he was abducted and shot while walking unprotected on the street by assailants who knew his identity. He suffered partial facial paralysis as a result of the shooting, but continued to receive threats in hospital. The state of Rio de Janeiro was unable to provide adequate protection and secure accommodation which might allow Wagner dos Santos to live as normal a life as possible. Of the Witnesses' House in Rio de Janeiro he said,

*"It's a dump in truth, we were like pigs, Pigs that eat and sleep and wait for Christmas to be slaughtered... The place was really small, there was no room for anything. We just stayed in there waiting for the time to pass... Nobody came by there, there were no psychologists, there was nothing. It seemed like we were prisoners"*

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<sup>15</sup> UA 244/93 AI Index AMR 19/23/93

Witnesses can play a crucial role in bringing to justice those responsible for human rights violations. However, witnesses who are prepared to testify against police and hired gunmen, often protected by powerful political interests in the area, are routinely harassed and intimidated in Brazil. The provisions for protection of witnesses are wholly inadequate, and the vast majority of witnesses receive no official protection, although the government has recently submitted a bill to congress to create a national witness protection program. A pilot program in five states is still in its embryonic stages. The first witness protection program was set up by a human rights NGO, GAJOP, in Pernambuco after several of the staff members had themselves suffered death threats and an attempt on one members's life. The program functions in collaboration with the state government, but nonetheless depends heavily on volunteers to accompany and protect endangered witnesses, that is, on human rights defenders in effect protecting other defenders, in the absence of a fully functioning government-run program.

Wagner dos Santos became more fearful and depressed about his situation and in October 1995, as a result of national and international appeals, made by Amnesty International members and others, the federal authorities arranged for him to go to another country for his own safety.<sup>16</sup> His testimony has since been crucial in securing the conviction of Marcos Vinicius Borges Emanuel. However, in the trial of another defendant, he felt that his evidence was not being taken seriously and that he was being used. He told a reporter that if he ever witnessed another crime in Brazil, he would not speak out, "I'll blindfold myself".

The centrality of Wagner dos Santos' testimony to bringing the perpetrators of the Candelária massacre to justice, as well as the frustrations encountered in ensuring their key witness' safety were admitted by the state prosecution service itself:

*"The investigations were delayed because we had no witness protection program which caused great difficulty in bringing witnesses or even survivors such as Wagner dos Santos to testify against all accused"*<sup>17</sup>

In September 1997, the federal government submitted a bill to Congress to create a federal witness protection program. It has yet to be debated and voted on by Congress. Television journalist **Mariza Romão** (see below **6. Telling the Truth**), a key witness to the Eldorado dos

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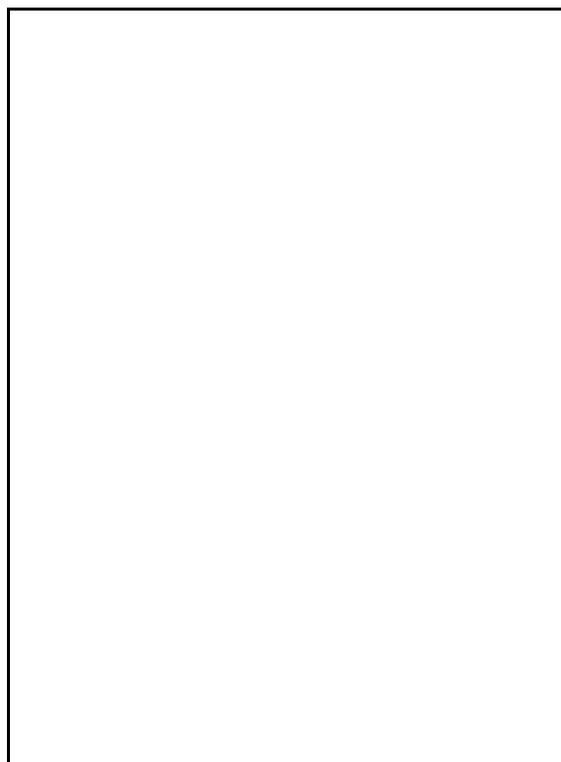
<sup>16</sup> Amnesty International *Brazil: Witness Protection: Wagner dos Santos* AI Index AMR 19/24/95 and *Brazil: Candelária and Vigário Geral: Justice at a snail's pace* AI Index AMR 19/11/97.

<sup>17</sup> In a letter received by Amnesty International from the Rio de Janeiro Public Prosecution service, *Ministério Público do Estado do Rio de Janeiro*, 14 November 1996

Carajás massacre, visited authorities in Brasília in December 1997 after she began receiving death threats and discussed with them the importance of the witness protection bill currently pending in Congress.

**Edméia da Silva Euzébio**, one of the "Mothers of Acari" was murdered in circumstances suggesting an extrajudicial execution after she started campaigning to find out the whereabouts of her son who had "disappeared" in Rio de Janeiro in 1990. On 26 July 1990 eleven people, five of whom were minors, were abducted by a group of armed men from a farm in Magé, Rio de Janeiro state. Their bodies have still not been found. The mothers of the Magé "disappeared", who actively campaigned for a complete investigation, have repeatedly received death threats and been harassed by members of the military police that patrol the Acari shanty town (*favela*).

**Edméia da Silva Euzébio** and her sister-in-law **Sheila da Conceição**, were shot dead in downtown Rio de Janeiro. The individual accused of their murders, with links to the military police, was twice acquitted in a jury trial, partly because prosecution witnesses were too scared to testify.



Edméia da Silva Euzébio, one of the "Mothers of Acari"

© Jaime Silva/Enfuse

Often it is the mothers and other female relatives of the victims of human rights violations who are moved by their own experience to organize in defence of human rights. Women throughout Latin America have been at the forefront of human rights campaigns, demanding investigations into the "disappearance" of family members. Brazil is no exception. The Mothers of Acari have provided advice and support to women in similar situations in the *favelas* in Rio de Janeiro. Vera Lúcia dos Santos lost eight members of her family, when they were killed by military police in August 1993 in the Vigário Geral *favela*. However, the family house has now been transformed into a community centre, the *Casa da Paz* (House of Peace) and she has been active in campaigning for those responsible to be brought to justice. She is a key prosecution witness, and gave testimony in January whilst heavily pregnant.

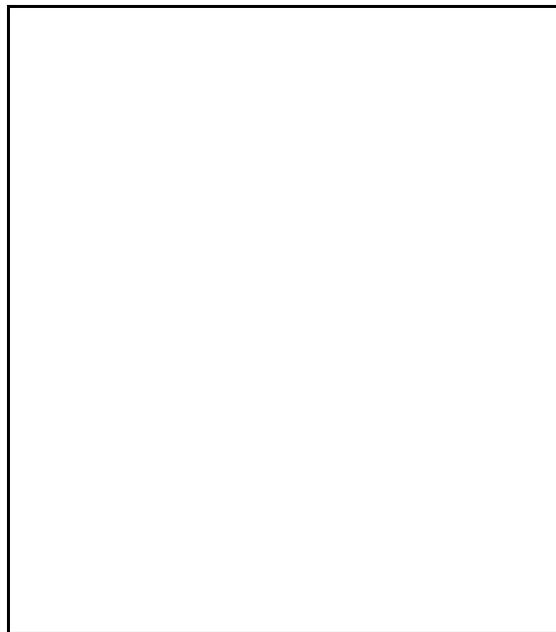
## 6. TELLING THE TRUTH: Journalists and the press

*"Everyone has the right to freedom of opinions and expression"*

Article 19, Universal Declaration of Human Rights

In July 1994, journalists **César Gomes Gama, José Antônio Moura Bonfim, Marcos Cardoso, Elenaldo dos Santos Santana** and others received death threats and reports that gunmen had been contracted to kill them after they had published a series of reports in CIFORM (*Classificados e Informações*), a newspaper in Sergipe about the activities of a death squad called *A Missão*. They alleged that the death squad was responsible for a large number of killings in the interior of the state, and to involve members of the shock troops of the state military police, senior police officers and state authorities. On 14 September, while two of the journalists were making a radio broadcast about the death squad from the newspaper's office, the building was reportedly surrounded by heavily armed men. The previous day they had received a message saying "they would not last the weekend". Following pressure by the federal authorities, the state authorities assigned state civil police to protect them and gave them bullet proof vests. The journalists also contracted their own personal body guards (see more on the case under **7. Policing the police** and the case of **Adelmo Peixoto Hora Nunes**). The death squad was disbanded following appeals by Amnesty International and other human rights organizations.

**Mariza Romão**, a television reporter for O Liberal TV, was one of the very few non-MST eye-witnesses to the Eldorado de Carajás massacre in Pará state, in which military police killed in cold blood 19 landless peasants, and tortured and ill-treated many more in April 1996.<sup>18</sup> When it became clear that police were going to use violence to disperse the MST demonstrators on the PA-150 highway, she approached the platoon commander in an attempt to negotiate a peaceful evacuation. However, he replied that she should leave the area since he "couldn't guarantee her life" When the military police started shooting, many of the peasants fled in terror. She and the camera crew took refuge in a hut. As police approached, she went out and pleaded with them not to shoot since there were women and children sheltering there.



Mariza Romão © Júnior/MJ

The television crew was arrested and their camera equipment impounded. They were forced at gunpoint to hand over their film and to enter one of the police buses in which they were detained for one hour. The camera footage and her eyewitness account of the massacre and of specific killings have already been crucial in bringing to trial the police responsible, as she has given testimony in preliminary court hearings. In November 1997, shortly after 153 military police were indicted on charges of aggravated homicide and bodily harm, Mariza Romão began receiving anonymous telephone death threats. She and her children finally had to leave her home for her own safety with the help of the National Federation of Journalists (FENAJ) and is currently under the protection of the civil police. Federal police protection was withdrawn in December 1997. She is not the first to be threatened in the aftermath of this massacre. The MST lawyer accompanying the case has also been the target of death threats. The previous judge allocated to the case resigned in February 1997 complained of unnecessary obstacles, a poor quality investigation and continual threats.

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<sup>18</sup> Amnesty International *Brazil: Corumbiara and Eldorado de Carajás: Rural violence, police brutality and impunity* AI Index 19/01/98

The Eldorado de Carajás massacre was the first massive human rights violations captured on film and broadcast on television in Brazil. It caused much national and international outrage and greatly raised public awareness about human rights violations in situations of land conflict. Mariza Romão commented on the responsibility she felt,

*"This is my right as a citizen, as a journalist, as a reporter. I am duty bound to inform people. I fulfilled my duty as a journalist to inform the public, to show what actually happened in Eldorado do Carajás. Up until now no massacre had been filmed and broadcast on TV"*

She has decided to testify as a matter of principle and urges other journalists to do the same,

*"They should not keep quiet. One of the things that the man who's been threatening me keeps repeating is 'don't publish it in the press.' He knows that we have power. Sometimes journalists who are reluctant to testify are unaware of the power they have to suppress this kind of behaviour, to reach those who make threats. Nobody has the right to take your life. Nobody can come up to you and say, 'You can't talk about this. Shut up because you're damaging my interests or somebody else's.' We live in a democracy"*

However, she is also acutely aware of the government's responsibility to protect her and others as vital prosecution witnesses,

*"I think that impunity should be fought and that more attention should be given to the protection of witnesses, as in my case, that of the cameraman, and of the driver who drove the military police back to Marabá after the incident. They were also threatened.... The justice system has to do something about its witnesses, because we are at the mercy of the criminals. You are trapped, with fear of being killed." <sup>19</sup>*

*"If it has been difficult for me, a high-profile journalist backed by a journalists' union, to get police protection, imagine how hard it must be for ordinary or low-income people to get the protection they need."*

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<sup>19</sup> Interview in FENAJ's *Jornal do Jornalista*, December 1997

In some parts of the country, where human rights groups are weak or under pressure, very often journalists are some of the few people with the resources to undertake investigations into human rights violations. Many have suffered threats as a result of their investigative journalism. There are few formal restraints on press freedom in Brazil. However, where local reporters begin investigating death squad or contract killings, or corruption in government circles, they have in some cases become the victims themselves.

## 7. POLICING THE POLICE: Police investigators and informants

The activities of one death squad *A Missão*, composed of members of the Sergipe military police shock troop (see **6. Telling the Truth** above) was exposed by an ex-member of the group, military police soldier **Adelmo Peixoto Hora Nunes**. In July 1994, he talked to a local newspaper, CINFORM, which was then able to publish a number of exposés. Several hours of his testimony, including allegations about the involvement of high level state authorities in the death squad's activities, were recorded on audio and video tape and passed to the federal authorities. Despite repeated calls for a federal investigation, investigation of the allegations and protection of **Adelmo Peixoto Hora Nunes** was left in the hands of the same military police authorities which he had accused. The death squad was disbanded and the commanding officer of the shock troop battalion removed from post.

**Francisco Vicente Badenes Júnior**, a civil police detective in Espírito Santo state, responsible for investigating death squad murders linked to the SDLC, allegedly faced a number of unnecessary bureaucratic obstacles that local human rights NGOs regarded as amounting to obstruction and possibly harassment on the part of the authorities. In the middle of his investigation in 1994, he was suddenly transferred, without warning, from the state capital Vitória, to a small town in the interior of the state where it was impossible for him to continue his work. As a result of a petition by local human rights defenders he was transferred back to the capital, but was not allocated a police car or office. Human rights NGOs eventually supplied him with an office and he was forced to use his private car to make arrests. It was his police work which led to the trial of military police accused of murder of street child **Jean Alves da Cunha** and he continues to investigate SDLC related murders and to assist a federal prosecution service legal petition to get the SDLC disbanded and declared illegal.

Despite the culture of impunity within the Brazilian security forces and the frequent resort to excessive use of force, torture and unprovoked fatal shootings of civilians and criminal suspects, there are many honest police in Brazil who do their job within the law and with respect for human rights. Some police, such as detectives and specialist investigators, will end up investigating their own colleagues' participation in death squads, massacres, extrajudicial executions and other human rights violations. They are vulnerable to pressure, harassment and intimidation by fellow members of the police.

## 8. ENSURING JUSTICE: Lawyers, judges, prosecutors

Assistant prosecutor (*assistente de acusação*) **Marcelo Denaday**, suffered an attempt on his life on 12 June 1997 in Vitória, the capital of Espírito Santo. He has been assisting investigations into a murder allegedly linked to the SDLC. He was driving home at 8pm with his wife and two children. Two hooded men on a motorcycle drew up level with his car and fired two shots with a silencer through the windscreen. No-one was hurt. Amnesty International has also been concerned for the safety of **Luiz Renato Azevedo da Silveira**, a state prosecutor who has been played a key role in investigating the SDLC. Both eventually received military police protection.

**Stella Kuhlmann**, a public prosecutor in the Military Court of São Paulo, suffered intensive intimidation in 1992, when she and other prosecutors began an investigation into alleged murder and extortion by members of the ROTA military police battalion. In addition to the death threats, a number of bomb threats occurred at the courthouse where the trial of members of the ROTA was held. The trial resulted in the convictions of two out of four police defendants in August 1993.

In several of the cases outlined in this document, members of the legal profession have suffered threats and harassment, including high-profile cases such as the *Casa de Detenção* prison massacre, Eldorado de Carajás and Vigário Geral massacres. Amnesty International has outlined its concerns about serious flaws in the manner of investigating these and other

massacres.<sup>20</sup> Intimidation of lawyers, judges and prosecutors is another manifestation of the process of impunity, facilitated by the fact that the state security agents accused of these violations are generally not suspended from active duty.

Members of the legal profession -- lawyers, judges, public prosecutors -- are not immune from attacks and intimidation. In Brazil all criminal cases, except for libel claims, are prosecuted by the state, that is, by public prosecutors. A representative of the interests of the victim or their friends and family (*assistente de acusação* - prosecution assistant) may assist the prosecutors, and these assistant lawyers are often human rights activists in local NGOs and advocacy groups. In many cases of unlawful police violence and killings, particularly massacres, monitored by Amnesty International, lawyers and prosecutors have been threatened and suffered attempts on their lives. These attacks are an attempt to pervert the course of justice and are in contravention of a number of United Nations principles and guidelines.

## 9. IF IT WEREN'T FOR ...

Human rights defenders make a crucial difference. Their courage and willingness to speak out is often critical in bringing to justice those who abuse human rights. The cross-section of defenders mentioned in this document have made a significant, often vital, contribution to ending impunity for human rights violations. There are many other individuals and organizations all over Brazil also engaged in speaking up for human rights. If it weren't for the courage and tenacity of these human rights defenders, many violators would not be brought to justice and many grave human rights violations would continue unabated and unchallenged.

**Death squads:** The death squad, *A Missão*, composed of members of the Sergipe military police, was disbanded in 1994 due to the actions of human rights defenders. Journalists on the newspaper CINFORM published exposés based on the testimony of a policeman, an ex-member of the death squad. In turn, threats to the journalists led to national and international pressure on the authorities to investigate the activities of the death squad..

**Massacres:** The eye witness testimony of Mariza Romão, a TV reporter who witnessed the massacre of 19 landless peasants in Eldorado de Carajás, has been crucial to the prosecution case. If it weren't for her willingness to testify, the 153 military police might not have been charged.

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<sup>20</sup> Amnesty International *Brazil: Corumbiara and Eldorado de Carajás: Rural violence, police brutality and impunity* AI Index 19/01/98

**Killings of street children:** If it weren't for the courage of Wagner dos Santos, those responsible for the killing of the street children outside the Candelária church would probably not have been brought to justice.

**Slave labour:** There would still be 220 workers kept under slave conditions on the Flor da Mata ranch if it weren't for the courage of Sebastião Luiz Paulino.

## **10. RECOMMENDATIONS FOR THE GOVERNMENT**

Human rights defenders in Brazil defend a wide range of human rights where the state is absent, negligent or actually acquiesces in human rights violations. The defenders themselves need to be protected when their work brings them into conflict with violators. Human rights violations against defenders are part of a wider pattern of widespread human rights violations in Brazil. At the moment in Brazil, the state's mechanisms for investigating violations committed by security forces, or those who act with the acquiescence of the security forces, are weak. The state frequently fails for a number of reasons to bring perpetrators of abuse to justice. When investigations are botched or hindered, when police alleged to have committed grave violations are not taken off active service, human rights defenders frequently step into the breach, insisting on a full investigation, and thereby expose themselves to danger.

The Brazilian authorities -- at all levels, federal, state and municipal -- should publicly recognize the legitimacy of the work of human rights defenders. Those human rights defenders at risk of abuse should be offered protection deemed appropriate by those under threat. The public adoption of the principles contained in the Final Declaration of the International Conference on the Protection of Human Rights Defenders in Latin America ("Bogotá Declaration") would represent a first, important step in this direction. In addition, Amnesty International calls on the Federal Government of Brazil to fully guarantee the series of rights of defenders outlined in the Bogotá Declaration. While the Federal Government of Brazil retains the primary responsibility for guaranteeing the human rights of its citizens, state and municipal authorities also play an important role in the local administration of justice, maintenance of law and order, and policing. It is therefore essential that the Brazilian authorities at all levels of the Federative Republic should explicitly commit themselves to promoting human rights, and protecting the rights of human rights defenders.

### **Promote human rights**

In order to protect and promote human rights, the Federal Government of Brazil should:

- ,        Make public declarations recognizing the legitimacy and importance of the work of human rights defenders;
- ,        Support within the United Nations and Inter-American human rights systems all and any effective mechanisms and initiatives which would give wide and universal recognition to defenders and the work they do;
- ,        Give full and active assistance and political support to missions by the thematic mechanisms, special rapporteurs, and treaty bodies of the United Nations;

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- , Sign and ratify the First Optional Protocol to the United Nations International Covenant on Civil and Political Rights (ICCPR). This reinforces international protection of human rights via the action of a body with international jurisdiction;
  - , Declare under Article 22 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, that it recognizes the competence of the Committee Against Torture to receive and consider communications from or on behalf of individuals. Brazil is a State Party to the Convention, but communications about human rights violations against individuals in Brazil cannot be received by the Committee unless Brazil makes this declaration;
  - , Recognise the jurisdiction of the Inter-American Court of Human Rights. This would strengthen the international protection of human rights and give individuals a very important international remedy for making complaints about human rights violations.

These last three recommendations are particularly important as domestic measures for investigation of human rights violations by security forces are still weak and structurally flawed. Violations are not investigated by an independent body, and those committed by the military police continue in most cases to come under special military jurisdiction. Cases may be taken to the Inter-American Commission or the United Nations Human Rights Committee once domestic mechanisms are exhausted, or if such mechanisms do not exist or are ineffective. Human rights defenders already play an important role in documenting, monitoring, reporting and prosecuting human rights violations at national level, and in bringing violations to the attention of international institutions set up to protect human rights. At present individual complainants are denied access to these regional and international fora to seek proper redress due to the Brazilian government's continuing reluctance to submit to international scrutiny.

### **Recent initiatives in Brazil**

Amnesty International recognises the recent positive initiatives of the Brazilian government, for example the launch of the National Human Rights Program and the establishment of a National Human Rights Secretariat. Civilian courts now have jurisdiction over intentional homicide committed against civilians by the military police, and the crime of torture has been characterised within the penal code. A number of the recommendations listed below have already begun to be addressed by the government in the form of draft legislation and constitutional amendments currently awaiting debate in Congress, and which require urgent consideration. The impetus in favour of human rights needs to be maintained, especially during an election year when other concerns tend to fill the political agenda.

The Brazilian authorities need to implement a number of key legal and administrative reforms to ensure that there are no restrictions to the work and activities of human rights defenders in protecting and promoting human rights. These include:

- , The establishment of a comprehensive national witness protection program: The government submitted to Congress in September 1997 a bill proposing the establishment of a federal witness protection program, building on the success of the scheme in Pernambuco. Such a federal program is crucial to the protection of witnesses and human rights defenders, where they may need to leave their home state, or even the country, for their safety. A federal program, when approved, will require adequate resources in order to function effectively. Special efforts should be made to protect the security of relatives, witnesses, lawyers and journalists collaborating with investigations of human rights violations.
  
- , Reform of the police: There are number of proposals currently under debate in the Brazilian Congress. Amnesty International hopes that a number of principles will be taken into consideration when the government and legislators decide the form that structural reforms to the police will take. These would include:
  - \* Members of the security forces implicated in extrajudicial executions, “disappearances” or torture should be immediately suspended from any position of authority and from active duties
  
  - \* Human rights violations committed by state security forces should be investigated by a body other than that alleged to have committed the violations. Forensic services should be independent of the police
  
  - \* Security force personnel against whom there is evidence of involvement in extrajudicial executions, “disappearances”, torture and ill-treatment, or other human rights violations should be prosecuted in civilian courts;
  
  - \* Such crimes should have no statute of limitations, no matter how much time has elapsed since the commission of the crime. The perpetrators should not benefit from any legal measures exempting them from criminal prosecution or conviction;
  
- , Human rights education for members of the security forces: There are many valuable initiatives around Brazil, to which Amnesty International has also contributed, which have begun to bring about a change in the attitudes of the police towards human rights, human rights defenders and the public. These programs need to be expanded greatly

in order to widen their public. All police, from the lowest to the highest ranking should have human rights included in their training curriculum;

, Greater powers for federal authorities to assume responsibility for investigating human rights violations, where necessary: Federal police should be able to step in and take over investigations where state police are unwilling or incompetent to carry out an impartial, rigorous investigation. A proposed Constitutional Amendment to this effect is currently awaiting consideration by Congress. Federal police have already provided police protection to human rights defenders in a number of cases where state police are implicated in human rights violations.

## APPENDIX

### **Final Declaration of the International Conference on the Protection of Human Rights Defenders in Latin America, Bogotá, 25 May 1996**

The international conference on the protection of human rights defenders in Latin America and the Caribbean, organized by Amnesty International, took place in Bogotá, Colombia, from 22 to 25 May 1996. The Conference emphatically confirmed the principle that everyone has the right to defend human rights, and that the defence of these rights is an endeavour to be shared by all people.

Men and women, individually or collectively — in their homes, their places of work or study, through religious institutions, social or cultural organizations, trade unions, political parties or state institutions — whatever their philosophical beliefs or social origin, have the inalienable right to defend and promote each and every one of their human rights in the struggle to achieve a world in which all people will be free from “fear and want”.<sup>21</sup>

The Conference confirmed that in Latin America and the Caribbean, as well as in the other regions of the world, defenders have the right to oppose violations of all human rights peacefully and actively, to denounce violations when they take place and to give their support to the victims. Furthermore, human rights defenders must be free from political pressures in their efforts to obtain the consensus that enables a society to progress, and in furthering the adoption of initiatives that consolidate the rule of law. Defenders have to be able to contribute to the creation and implementation of mechanisms that protect us from the intolerance and arbitrariness, frequently found in the context of social conflict or authoritarianism, that undermine human rights in the region. The Conference emphasised the legitimacy of the work of human rights defenders in combatting all forms of impunity that benefit those who violate human rights, particularly those amnesty laws that pervert the very nature of law and promote the cycle of violence that erodes the basis of democratic consensus.

The Conference observed that the fundamental conditions for the defence of human rights are not always found in the region. The defence and promotion of the rights of victims frequently endanger the defenders themselves, who in turn become victims of torture, murder, disappearance or imprisonment.

The Conference further observed that despite the extravagant pro-human rights rhetoric from governments that has characterised the process of political, social or economic transition in the region, there continues to be an enormous gap between discourse and reality. New forms of

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<sup>21</sup> Universal Declaration of Human Rights

harassment and repression are being carried out, including smear campaigns against individuals and institutions, attempts to criminalize activities inherent in the defence of human rights, and the creation of legal obstacles to obtaining the means necessary to carry out the work. The Conference also noted that governments frequently create institutions in response to the diplomatic necessity of safeguarding their international image, rather than because of the effectiveness of such institutions in the defence and promotion of human rights.

The Conference concluded that the protection of human rights demands the recognition of the right to defend them, which is contained in a series of rights already recognized at the international level, fundamentally:

- , The right to defend the fundamental rights and liberties of others, as well as one's own; the right to investigate violations of these rights and liberties, and the right to oppose such violations;
- , The right to form or to join national or international groups or associations for the defence of human rights;
- , The right to information, the right to meet with and to have freedom of expression and communication with other defenders;
- , The right to choose to defend any or all human rights, on behalf of some or all of the groups or sectors in a society;
- , The right to obtain and use the human, economic, technical and other resources necessary to guarantee the effective exercise of the right to defend human rights;
- , The right of defenders to communicate freely and via those means deemed adequate with national or international organizations, intergovernmental as well as private;
- , The right of defenders to participate in peaceful activities aimed at promoting human rights;
- , The right to use the law and the institutions of the state to defend human rights and to represent victims before the courts and other state institutions;
- , The right to defend human rights which are already recognized and to advocate the recognition of new rights, beyond political, ideological, philosophical or religious considerations, on both the national and international level.

The Conference emphasised that it is the inescapable responsibility of state and intergovernmental bodies to guarantee the free exercise of the right to promote and defend human rights. States are fundamentally obliged to protect and promote this right, to prevent it from being threatened, restricted, or suppressed, and to protect the liberties and security of those who exercise it. In particular, the states of Latin America and the Caribbean should adopt urgently all means necessary for countering repressive actions or intimidation by government agents against defenders, their allies and organizations, and to take all means required to dismantle paramilitary groups that in some countries constitute a permanent threat to the work and security of human rights defenders. This protection should be extended to all those — such as accusers and witnesses, officials and judicial personnel — who contribute, even in a circumstantial manner, to the defence of human rights.

The Conference, while taking note of the important role played by the protection mechanisms established by intergovernmental bodies such as the United Nations and the Organization of American States, condemns the lack of international instruments that recognise, at the universal and the regional level, the individual and collective right to defend human rights. In this context, the Conference urges the UN Human Rights Commission to perfect, finalise and adopt, in the shortest time possible, the text of the Declaration on Human Rights Defenders that has been the subject of debate and discussion at the Commission for more than 11 years. The Declaration should contain the body of minimum guarantees cited above, which make the effective defence of human rights possible. The Conference also exhorts the Organization of American States to adopt a body of measures and norms that reflects the needs of the defence of human rights in the region, paying special attention to regional peculiarities.

Finally, the Conference calls on human rights defenders in Latin America and the Caribbean to continue in their countries the process initiated in Bogotá, and to promote similar processes in other regions of the world, with the objective of elaborating principles and plans of action that contribute to the effective protection of the right to defend human rights.