

£BRAZIL

@Witness protection: Wagner dos Santos

Amnesty International has received information from the Brazilian Government confirming that Wagner dos Santos, the only adult witness to the Candelária massacre in which seven street children and one adult were killed in Rio de Janeiro on 23 July 1993, was escorted by officials from the Department of Federal Police on 26 October 1995 to a secret location in order to secure his safety, by decision of President Fernando Henrique Cardoso.

Amnesty International greatly welcomes the protection offered to Wagner dos Santos by the federal authorities, and hopes that the government will ensure that an effective national witness protection program will be set up and implemented shortly.

Wagner dos Santos was both a witness and a survivor of the Candelária massacre in which he was beaten and shot. On 9 December 1994 he suffered a further attempt on his life, whilst staying at the Witness House in Rio de Janeiro, he still suffers from partial facial paralysis as a result, for which he requires physiotherapy.

Since December 1994 Wagner dos Santos had been subjected to threats and had been living under very difficult circumstances. Demoralised and losing confidence in the state's ability to protect him, Wagner decided in September to leave the Witness House where he had been since May 1995. "*They have beaten me through tiredness (me venceram pelo cansaco)*," he said.

Wagner's safety and well-being

Since the Candelária massacre several initiatives have been taken by national and international non-governmental organizations to try and secure Wagner dos Santos's safety, and that of child witnesses to the massacre.

In April 1995 Amnesty International's Secretary General, Pierre Sané, visited Wagner dos Santos in hospital who reported the threats against him in the hospital. Globo TV, a national television channel, televised Wagner's case on successive nights. The Secretary General wrote to the President to request his intervention in improving Wagner's situation at the Firemen's Hospital, where Wagner had been harassed and threatened (AMR 19/11/95), and he also took up the case with the Governor and State Secretary for Public Security in Rio de Janeiro. Amnesty International members throughout the world have made successive appeals on Wagner's behalf. Partly as a result of these initiatives Wagner was moved to the Public Servants Hospital in April 1995 where he received an operation to mend a broken nerve in his jaw.

In May 1995, after being discharged from the Public Servants Hospital, Wagner dos Santos was given military police protection at the state's Witness House. However, conditions at the Witness House were extremely poor and Wagner felt isolated and imprisoned. To leave the

Witness House, authorization had to be obtained from the Commander of Military Police and the Shock Battalion in charge of Wagner's safety, and a police escort had to be arranged, these arrangements took time to organise. This contributed to there being lengthy delays in obtaining further medical attention for his injuries, such as physiotherapy. In addition, according to information received by Amnesty International, the Witness House lacked resources, adequate food and any kind of facilities. Wagner dos Santos was reportedly particularly frustrated by the lack of any activities at the Witness House and sought to be able to do some kind of work.

As the trial for the massacre approached, Wagner dos Santos was put under increasing pressure to make further identifications, on the request of defence lawyers for the three military police and one civilian charged with the killings. Wagner became more anxious and began to have difficulties sleeping and eating.

On 15/16 September, depressed by the conditions at the Witness House, and fearful of the consequences of appearing in court, after which he believed he would not be adequately protected, he reportedly cut his wrists, leaving superficial injuries.

On 19 September, the public prosecution service told Wagner dos Santos that he would be transferred to the Command Centre for Military Policing in the Interior of Rio de Janeiro State (*Comando do Policiamento do Interior - Polícia Militar, Estado de Rio de Janeiro, CPI-PMERJ*), a military police battalion in the city of Niteroi, across the Guanabara Bay from the city of Rio de Janeiro. It was proposed that he would be able to walk about its precincts and undertake light work as a means of occupying himself.

However, fourteen members of the military police of Rio de Janeiro, charged with the massacre of 21 shanty town residents in Vigário Geral, Rio de Janeiro on 30 August 1993 are being detained at the CPI-PMERJ. These detainees are commonly known as members of the *Cavalos Corredores*, the Race Horses - a "death squad" held responsible for the Vigário Geral massacre and other killings in recent years (see *Beyond Despair: An agenda for human rights in Brazil AMR 19/15/1994*). Although the public prosecution service is reported to believe that some of these detainees may be innocent of the Vigário Geral massacre, Wagner dos Santos was terrified at the prospect of being housed in the same establishment as them.

On 21 September, Wagner dos Santos visited the II Jury Court house in Rio de Janeiro and expressed his wish to be excused from further appearances in court and the desire to be able to lead a normal life. He said that he would keep in contact with the court and consider further appearances later, provided he received adequate protection. As Wagner dos Santos has already made identifications and statements before court in relation to the Candelária massacre, the case is not technically affected by his absence during the jury trial stage, and he remains a state witness. In a letter to Amnesty International which he asked to be attached to the judicial proceedings, Wagner wrote the following:

"I want to thank all the Amnesty International people for everything they did for me, but

I haven't got the energy to continue with what I started. Over time I have been worn out. The reasons are many; I have spent a lot of time struggling against the system of my Brazil. At the start lots of people warned me but I didn't want to believe them. Now I realise it's true. I am exhausted by everything that happened. I struggled until I could, but I can't manage anymore. I am sorry for my weakness, I know you had confidence in me. I hope I haven't disappointed all of you that wrote [letters to and for] me. I know that you imagine my situation, but I can't put up with anymore. At the moment I only want to think about my future, to forget, to find work, to build a little home; things that I never had. I only lived in a children's institution and then at the places I worked. If I hadn't lived like that none of this would have happened to me, because when everything happened I would have been under my own roof, but unfortunately I was at that place because I didn't have anywhere to live. It was really difficult taking this decision, but I think it's the right moment, because justice in Brazil is not working. So they have beaten me through tiredness.

I am grateful to all of you. Thank you so much for everything you did for me in trying to give me a lot of strength and courage.

I am going to stop here. I am stopping. Sorry to all of you who supported me and who believed in my story. One day when our country is more dignified, more humane and when the struggle is fairer....For the time being there is only going to be defeat for the weakest. I don't feel defeated, but worn out by the length of time the battle has lasted. I can say battle, because there was constant blood, struggle and tears and a lot of suffering for me and those who helped me."

Translation of a letter from Wagner dos Santos to Amnesty International, September 1995, Rio de Janeiro, Brazil.

On 28 September, Wagner dos Santos left the city of Rio de Janeiro and travelled to a secret destination, assisted by non-governmental organizations, without police protection. He reportedly had to move location on several occasions.

On 26 October, despite the difficult circumstances under which Wagner dos Santos has been living, he agreed to give evidence in court. On this occasion Wagner recognized through photographs another four military policemen (not previously implicated) suspected of participating in the Candelária massacre. According to reports the court is considering issuing warrants for their arrest.

Following national and international appeals and considerable media coverage, the federal authorities agreed to provide Wagner dos Santos with a place of safety to ensure his well-being. According to the Brazilian Government, "the security measures consisted in escorting the witness from his hiding place to the court and from there to the airport to be flown to an unrevealed place of safety...out of Rio de Janeiro". The government is reported to have given a commitment to securing Wagner dos Santos's long-term safety, but this is not yet confirmed.

In the absence of measures to guarantee their safety, child witnesses to the Candelária massacre (see UA 440/94) have reportedly expressed their reluctance to make further court appearances in relation to the trial of those accused. At this delicate stage in the proceedings witnesses, lawyers for the prosecution, state prosecutors and the judge involved in the Candelária trial may be particularly vulnerable to threats and assaults. Amnesty International therefore continues to be concerned for their safety.

The Government's promises

On Brazil's National Independence Day, 7 September, President Fernando Henrique Cardoso made a televised speech especially on human rights. "As we approach the 21st century the fight for freedom and democracy has a specific name: It is called human rights", he said. He announced that "a proposal submitted to Congress this year seeks to protect witnesses in criminal investigations processes because, as a result of the lack of a protection programme, witnesses have often felt inhibited and have been unable to testify about what they truly know. Thus, society cannot meet its objective of restoring public dignity and, on other occasions, of deterring violations of human rights through the judicial system." He also cited the Candelária massacre as one of the cases that had "not be cleared up" and that required "instruments that can ensure the stiff punishment of these crimes".

Wagner's medical condition

After moving to the Public Servants Hospital, Wagner dos Santos was given an operation there to mend a broken nerve in his jaw. Although full movement has not returned to the side of his face affected, he seems to feel some improvement. The doctors at the Public Servants Hospital recommended physiotherapy for this, and a follow-up operation, after physiotherapy, to correct his mouth. So far Wagner has been unable to obtain this physiotherapy.

Wagner dos Santos's decision to leave Rio de Janeiro meant that he missed an important appointment at the Deolindo Couto Neurology Institute to make an evaluation and recommendations for his physiotherapy treatment. It is hoped that the federal authorities will be able to arrange for his subsequent treatment in the location they designate for his safety.

Without Precedent

Amnesty International believes that the case of Wagner dos Santos sets an important precedent for the protection of all witnesses testifying in cases of human rights violations in Brazil. Witness protection is a vital prerequisite if full and impartial investigations are to be carried out and those responsible for human rights violations are to be identified and brought to justice. By assuming full responsibility for witness protection, in particular the case of Wagner dos Santos, and all other witnesses, lawyers for the prosecution, state prosecutors

and the judge involved in the Candelária trial, the Brazilian Government may demonstrate its determination, verbally expressed by President Fernando Henrique Cardoso on 7 September 1995, to bring to an end impunity in Brazil and to fully implement its obligation to secure the full and impartial investigation of human rights violations.

Amnesty International greatly welcomes the protection offered to Wagner dos Santos by the federal authorities, and hopes that the government will ensure that an effective national witness protection program will be set up and implemented shortly. The Government has announced it will be drawing up a National Human Rights Action Plan that will be presented for full debate in Brazil's 27 states. Amnesty International urges that a detailed witness protection program is a feature of this plan.

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