

EXTERNAL

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EXTRA 82/97

Fear of unfair trial

9 June 1997

BRAZIL José Rainha Junior, peasant leader

José Rainha Junior, a national leader of the *Movimento dos Trabalhadores Rurais Sem Terra*, MST, Landless Rural Workers' Movement, is about to face a trial which may not meet international standards of fairness and on a charge which may be politically motivated. If convicted he could face up to 20 years' imprisonment.

Amnesty International has just received confirmation that the trial will begin on 10 June 1997 and will be held in Pedro Canário in Espírito Santo state. José Rainha is accused, along with eight other landless peasants, of the intentional homicide on 5 June 1989 of a local landowner and of a policeman. As the whereabouts of the other eight are not known, he will stand trial alone. In Brazil, homicide cases are tried by a jury of seven individuals and carry a sentence of up to 20 years' imprisonment. It is not clear how long the trial will take, but it could be over in a matter of days.

The MST is a legal organization which campaigns for agrarian reform and has staged a number of land occupations. Its success has brought it into conflict with the landowners and with the government, who have attempted to characterise the organization as a criminal body and have recently urged state authorities to crack down on the MST.

José Rainha's lawyers are concerned that he will not receive a fair jury trial in the locality where the murders took place, due to the influence of the landowners in the area, who are alleged to be members of the *União Democrática Ruralista*, UDR, Democratic Ruralist Union. In certain jury trials in Brazil which Amnesty International has followed the jurors have been threatened and the political power of landowners in rural areas is sufficient to intimidate both witnesses and jurors. A petition to have the trial moved to the state capital of Vitória was, however, denied. There have been a number of killings of rural leaders in Espírito Santo, including in Pedro Canário since the alleged crime.

The charge itself may also be politically motivated, given José Rainha's prominence as a local MST leader in the area at the time of the killing. He has since come to national attention for his MST activities in São Paulo state. It is claimed that, at the time of the killing, he was several hundred miles away in the state of Ceará in the company of the then state Secretary for Agriculture.

José Rainha and four other MST leaders have been the subject of three preventive detention orders in São Paulo state over the past two years, all overturned in the Federal Supreme Court. His wife, Diolinda Alves da Souza, was adopted as a prisoner of conscience by Amnesty International in March 1996 due to concerns that she had been detained in order to pressurise the MST to cease its land occupations and to persuade her husband to give himself up for arrest (see UA 68/96, AMR 19/09/96, 8 March 1996, and update AMR 19/10/96, 14 March).

BACKGROUND INFORMATION

Eighteen landless peasants were arrested shortly after the killings and confessed to the crime, but since their release their whereabouts have not been known. José Rainha was arrested for the murders by federal police in the

state of Maranhão on 29 June 1990. After preliminary hearings he was cleared of involvement in the crime and released. He was, however, formally charged with the killings in 1993.

José Rainha has more recently been the subject of three separate preventive detention orders (in November 1995, January 1996 and February 1997) in the state of São Paulo related to his activities with the MST in the Pontal de Paranapanema region. In each case *habeas corpus* was granted by the Supreme Federal Tribunal. Amnesty International is very concerned that this and other groundless criminal charges, such as "forming a criminal gang", are being used against José Rainha and other members of the MST in a politically motivated manner. In October 1996, Amnesty International took up the case of Frei Anastácio Ribeiro, a priest sentenced to nearly five years' imprisonment on charges related to his peaceful activities in campaigning for land reform (see also UA 267/95, AMR 19/34/95, 30 November 1995 and update AMR 19/38/95, 7 December 1995).

Amnesty International is also extremely concerned at the human rights violations allegedly committed by an organization composed of members of the police and judiciary throughout the state of Espírito Santo, the *Scuderie Detetive le Coq*. Their activities have reportedly interfered with the course of justice in the state.

RECOMMENDED ACTION: Please send telegrams/faxes in Portuguese, English, Spanish or your own language:

- calling for the trial of José Rainha Junior to be moved to the state capital in Vitória, in view of fears that he may not receive a fair trial in Pedro Canário;
- expressing concern that the charge against José Rainha may be politically motivated and noting claims that he was several hundred miles away from the scene of the crime at the time the murders in question were committed;
- calling for measures to ensure that the trial is fair and takes place free from any intimidation of witnesses and jurors.

APPEALS TO:

Governor, Espírito Santo

Exmo. Sr. Governador do Estado do Espírito Santo
Sr. Vitor Buaiz
Palácio Anchieta
Vitória, Espírito Santo, CEP 29015-110 Brazil

Telegrams: Governador, Vitoria, Espirito Santo, Brazil

Fax: +55 27 223 0815

Salutation: Your Excellency/ Vossa Excelência

State Attorney General

Procurador Geral do Estado de Espírito Santo
Dr. Elcy de Souza
Procuradoria Geral de Justiça
Av. Governador Bley, N°236
Ed. Fábio Rusky, 11° andar
Vitória ES, CEP 29010-150 Brazil

Telegrams: Procurado Geral Estado, Vitoria, Espirito Santo, Brazil

Fax: +55 27 222 4422 [if voice, ask for fax (extension (ramal) 159)]

Salutation: Your Excellency/ Vossa Excelência

State Secretary of Justice

Exmo. Sr. Secretário de Justiça e Cidadania
Dr. Perly Cipriano
Av. Governador Bley 239
Vitória CEP 29010-150, Brazil

Telegrams: Secretario de Justica, Vitoria, Espirito Santo, Brazil

Fax: +55 27 223 1237

Salutation: Dear Sir/Sr. Secretário

Minister of Justice

Exmo. Sr. Ministro da Justiça
Dr. Iris Rezende
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Fax:+55 61 2267980 / 322 6817

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Salutation: Vossa Excelência/Your Excellency

COPIES TO:**Movimento dos Trabalhadores Rurais Sem Terra**

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COPIES TO: diplomatic representatives of Brazil accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 20 June 1997