

Transcribed from scanned original September 2014 so may contain errors

EXTERNAL

AI Index : AMR 19/05/84

Distr: SC/CO/AD

Amnesty International
International Secretariat
1 Easton Street
London WC1X 8DJ

BRAZIL

FURTHER DEVELOPMENTS IN THE CASE OF
FATHER ARISTIDE CAMIO, FATHER FRANÇOIS GOURIOU AND THIRTEEN
POSSEIROS

A REPORT ON THE SECOND APPEAL TO THE SUPREME MILITARY COURT
BRASILIA, 20 OCTOBER 1983

April, 1984

BRAZIL: Background to the Case of Father Aristide Camio and Father François Gouriou and Thirteen Posseiros

The French priests, who worked in the Baixo Araguaia region of Brazil, were arrested after an incident on 13 August 1981 in which a group of 13 peasants were alleged to have ambushed a government patrol, killing one man and injuring six others.

Amnesty International adopted the priests as prisoners of conscience and sent observers to all stages of the legal proceedings. In June 1982 the priests were found guilty by a military court in Belém of inciting the 13 posseiros to "violent struggle between social classes" and "collective disobedience to the laws" (Article 36 paragraphs II and IV of Law 6.620/78, the Law of National Security, LNS). The co-defendants were found guilty of using "violence for reasons of dissidence or socio-political non-conformity against those in authority" (Article 31 of the LNS). Father Camio was sentenced to 15 years' imprisonment, Father Gouriou to 10 years' imprisonment, and the posseiros received sentences of between eight and nine years' imprisonment.

Amnesty International's assessment of the Belém hearing was that it failed to meet internationally recognised standards for a fair trial. The organisation believed that the climate of hostility and intimidation created by the excessively large military presence both inside and outside the courtroom was not conducive to an independent and impartial hearing. Furthermore Amnesty International expressed its concern to the Brazilian government that there appeared to be serious grounds for believing that, during their pre-trial detention, the posseiros were subjected to coercion and ill-treatment. On 27 June 1982 Amnesty International sent a telegram to President João Figueiredo expressing the organisation's concern at the decision of the military court in the case of father Aristide Camio and Father François Gouriou in view of the lack of conclusive evidence against the priests. Amnesty International stated its firm conviction that the priests were prisoners of conscience and requested their immediate and unconditional release.

At the first appeal on 3 December 1982 the Superior Tribunal Militar, STM (Superior Military Tribunal) upheld the decision of the Belém court finding all the accused guilty of infringing the LNS. The STM however reduced the severe sentences imposed on the priests; Father Camio's sentence was reduced from 15 to 10 years' imprisonment and Father Gouriou's from 10 years' to eight years' imprisonment. The posseiros' sentences were unchanged. In its report of the appeal Amnesty International expressed its view that no evidence had been produced which showed the direct responsibility of the priests for the charges brought against them. Amnesty International believed that once again the court had failed to give due consideration to the manifest weaknesses and contradictions of the police investigation. Amnesty International however was encouraged by the fact that there was no military presence at the appeal and that, because the decision of the STM was not unanimous, the defendants would be able to make further appeals.

A Report on the Second Appeal to the Supreme Military Court (STM)

The appeal by Father Aristide Camio, Father François Gouriou and the posseiros began at 09.00 hrs on 20 October 1983 and ended at 18.00 hrs the same day. It included a secret session lasting two and a half hours.

About 100 people were able to attend the hearing including six bishops, representatives of the Justice and Peace Commission and prominent members of opposition political parties (PMDB, PT and PDT)*. An official from the French Consulate and observers from Amnesty International and the International Federation of Human Rights were also present.

Over one hundred people waited outside the STM building throughout the day.

The hearing was opened by the STM President, Admiral Sampaio Fernandes. One STM Minister, Gualter Godinho, who had been present at the 1982 hearing was absent and therefore the STM had thirteen voting Ministers. The President only has a vote in a few formal decisions but not on the substance of the verdict.

In marked contrast to the earlier hearings, the new Relator Minister (the rapporteur) Juracy Guimarães Pinheiro gave a detailed and balanced introduction to the case outlining the charges and referring to aspects of the case raised by the defence lawyers during the earlier proceedings. Another Minister, Brigadier Faber Cintra, presented the case against the two priests placing equal weight for responsibility for the ambush on both priests.

The Defence of the Posseiros and the Priests

One of the major developments in this appeal was the presentation of new evidence from some of the co-defendants. Since the December 1982 hearing, seven of the posseiros had been able to change their defence lawyer. The seven posseiros had made written statements which were presented to the court providing detailed information on the coercion to which they had allegedly been subjected by the local authorities.

They alleged that while in custody officials warned them not to accuse the police or GETAT agents of any kind of violence in the area and not refer to the fact that their land and homes had been damaged or destroyed. They were also allegedly cautioned against mentioning that they had been subjected to torture, including electric shock torture, in detention. The posseiros also claimed that officials told them not to refer to the involvement of hired gunmen in the incident. The gunmen, it is alleged, had been paid by the local landowners, who had acted in conjunction with GETAT agents and the police.

One of the posseiros was allegedly told to admit firing his gun even though he had not done so and all were allegedly told to make accusations concerning the direct responsibility of the two priests in the incident. The posseiros had allegedly been promised prompt release and recognition of tenure to the land they had been working in the area if they implicated Father Camio and Father Gouriou in the ambush.

*PMDB: Partido do Movimento Democrático Brasileiro (Brazilian Democratic Mobilization Party).

PT: Partido dos Trabalhadores (Workers' Party).

PDT: Partido Democrático Trabalhista (Democratic Labour Party).

Djalma de Oliveira Farias, the lawyer who acted for all the posseiros in the earlier hearings, was still defending six of the posseiros. His presentation to the court once again stressed the responsibility of the priests for inciting the posseiros to violence. He argued that the posseiros who were illiterate or semi-literate had been manipulated by the priests.

The two lawyers, Deusdedith Freire Brasil and Jose Sepúlveda Pertence, who were acting for the remaining seven posseiros presented a detailed picture of the violence of the Araguaia region and the question of land tenure in the region. They rejected the prosecution's allegation that the region had been an "island of harmony" until the priests' arrival and pointed out that eighty-two posseiros had been killed in the Araguaia region over the past few years but that these deaths had not led to trials under the Law of National Security. Moreover the defence lawyers presented evidence that hired gunmen were acting with GETAT and the federal police in expelling the posseiros from the land they had been working in the area.

Luis Eduardo Greenhalgh and Heleno Fragoso acting for the French priests presented written evidence to demonstrate how the priests' work conformed to statements made by Pope John Paul II and to the decisions of the Brazilian and Latin American Bishops' Conferences. They questioned how the priests could be accused under the Law of National Security since there was no evidence that they had been involved in inciting struggle between social classes. Referring specifically to a much quoted reference to Joseph and Mary in a sermon by Father Camio, which had been used by the prosecution as proof of the incitement, Luis Eduardo Greenhalgh argued that this could not be considered as evidence since it had not been sufficiently corroborated. Only one of the posseiros, João Matias, had mentioned the statement and Father Camio had denied making it.

The Arguments of the Public Prosecutor

The Public Prosecutor, Milton Menezes da Costa Filho, emphasized the priests' incitement as the major aspect of the case, arguing that the ambush was merely the result of the incitement. To support his argument, Milton Menezes pointed to Father Gouriou's role as coordinator of the MEP, Mission Etrangères de Paris (MEP), a French missionary order, and his responsibility for the policy and activities of the order in Brazil. The focus of his argument concentrated on the work of the MEP in marked contrast to the earlier hearing which had referred generally to the work of the Roman Catholic Church in Brazil. The prosecution stressed the responsibility of both priests for the work of the MEP order apparently seeking to strengthen the case against Father Gouriou, who had not spoken at the mass held in the area before the ambush, but whose silence had been construed as incitement at the December 1982 hearings.

The Secret Session

Before the verdict, the Relator requested a secret session for reasons which he did not specify to the court. A vote on this request was taken which resulted in six votes against and six votes in favour. The President then used his casting vote in favour of a secret session.

Secret sessions at STM hearings normally only occur if the accused are present in the courtroom which was not the case in this appeal. Another

unusual feature was that on this occasion the Public Prosecutor was able to attend the secret session but the defence lawyers were not admitted.

The Pronouncement of the STM's Decision

After a two and a half hour secret session the STM President Admiral Sampaio Fernandes announced the verdict which upheld the ruling of the earlier appeal, thus confirming the sentences against the priests and the posseiros. Moreover, the President immediately closed the session on the grounds that there was no time to continue the session, even though it was only 18.00 hrs and in the past appeals have continued throughout the night. There was general concern at the decision of the President not to continue the session in order to give the customary explanation of the voting and the arguments which had led to the verdict. Those attending the hearing were asked to leave the courtroom immediately and a crowd of some two hundred people waiting outside was quickly dispersed by the police.

Reactions to the Verdict

In an initial reaction after the hearing, Dom Luciano Mendes de Almeida, the Secretary General of the Brazilian Bishops' Conference, stated that everyone had expected that the "brilliant performance" of the defence lawyers would have been upheld and the "innocence of the accused would have been acknowledged". However, he added that his hopes for the case had only been postponed since the truth would eventually be known. Luis Eduardo Greenhalgh, one of the defence lawyers, stated "The priests did not commit any crime against National Security. We are all on trial here." The Vice President of the CNBB, Dom Benedito Ulhoa Vieira, declared "The pastoral work of the Church was on trial and condemned today."

Following the hearing, Father Aristide Camio and Father François Gouriou were informed of the verdict by their lawyers. The next morning they were visited by their lawyers, several bishops and the observers from Amnesty International and the International Federation of Human Rights.

Amnesty International's Assessment of the Case

Amnesty International reiterated its deep concern about the cases on the morning after the trial in a telegram to President João Baptista Figueiredo.

In the telegram Amnesty International stressed its conviction that the priests were imprisoned "for expressing their conscientiously held beliefs and for practising, in the course of their normal pastoral duties, the official policy of the Roman Catholic Church. Amnesty International has closely observed every stage of the trial and believes that the accusation against the two priests of incitement to violence has not been substantiated. Moreover there would appear to be clear indications that some of the co-defendants were tortured in custody and were forced to sign statements incriminating the priests in the ambush which occurred on 13 August 1981." Amnesty International called for the immediate release of the priests as prisoners of conscience.

The Release of the Priests and Posseiros

In December 1983 the Brazilian Congress approved amendments to the LNS which reduced both the number of offences and the penalties. The new law defined violations of national security more narrowly and reduced the number of crimes from 40 to 22. On 16 December 1983 as a direct result of these amendments the STM ordered the release of Father Gouriou and Father Camio whose sentences had been reduced to 1 year and 1 year 3 months respectively. They had already spent 2 years 3 months each in prison. The posseiros were released on 19 December 1983.

Nevertheless, in an attempt to have their conviction overturned, the priests have lodged a final appeal before the Supreme federal Tribunal which is due to be heard in May or June 1984.