

# **Brazil**

## **Memorandum to the Brazilian President on the occasion of the visit of Irene Khan, Amnesty International's Secretary General, to Brazil November 2003.**

The mission of Amnesty International, led by the Secretary General, offers an important opportunity for dialogue with the new Federal Government on proposals for the defence of human rights at state, federal, regional and international levels. In March 1995 Amnesty International's then Secretary General visited Brazil to open a similar dialogue with the then newly elected government. At that time Amnesty International presented the government with a detailed analysis of the human rights situation in the country and sought to discuss proposals for addressing these. Eight years on Amnesty International recognises the opportunity to build on progress and to identify new initiatives required to address persistent problems.

During these eight years fundamental changes have deeply altered the economic and political context surrounding the fight for human rights around the globe. That is why Amnesty International's Secretary General comes to Brazil with a broad message that addresses the human rights situation in the country, what has been achieved and what remains to be achieved, but also addresses the important role that Brazil can play in the defence of human rights regionally and globally.

Governments and inter-governmental organizations have a dual responsibility: to combat global poverty and discrimination and to ensure that people can live in peace with their human rights guaranteed. Fundamental to this is the need to affirm that global, national or personal security can only be achieved if human rights are realized. The Brazilian government has advanced this same point at the inter-governmental level. Amnesty International recognises the contribution made by the new government to the human rights debate at the regional and international level by underlining the intrinsic need to guarantee human rights based on the rule of law. What is more, the government has also highlighted the need to combat the vast social and economic disparities that exist in the world today, including a proposal to create a World Committee to Fight Hunger.

Amnesty International now urges Brazil to use the opportunity of a seat on the United Nations Security Council to ensure that the protection of human rights is integral to the actions of that body. As an important political and economic power, Brazil has a

---

vital role to play in defending human rights at both the regional and global levels: the expectation that it will do so is great. Thus Amnesty International urges the Brazilian government to play an active and leading role in the promotion of human rights by maintaining it at the forefront of its foreign policy.

However, responsibility and discourse at international level must be mirrored by action at the national level. In the past, Brazilian governments have failed to match their promises at international forums with genuine protection for those most at risk in the country, either due to a lack of political will or an inability to overcome vested political and economic interests. Brazilian governments' commitment to human rights, demonstrated by their ratification of many international and regional human rights treaties, have been undermined by their failure to implement the provisions of those treaties.

Since the former Secretary General's visit to Brazil in 1995, Amnesty International has followed the human rights situation in the country closely, including the previous Government's implementation of two National Human Rights Plans and the criminalisation of torture. However, in the context of what is widely defined as a public security crisis large sections of the population, most notably the poorest and most socially marginalized, continue to suffer systematic and violent abuses at the hands of the very law enforcement officers who are supposed to protect them. Many of the concerns raised by Amnesty International, eight years before, continue to hold true today.

### **Indivisibility and Interdependence of Human Rights:**

On taking office this government vowed to end hunger in Brazil and it has focussed much of its social policy on its "Zero Hunger" program. Ending economic and social exclusion, especially hunger, is a vital step towards overcoming the vast disparities that are at the heart of most human rights violations in Brazil today. Hunger and poverty are as significant a threat to the security and rights of all Brazilians as are armed violence and organized crime. While warmly welcoming the government's stated commitment to address these chronic violations of economic and social rights, Amnesty International urges the authorities to translate these social priorities into human rights commitments, using the considerable body of international standards and jurisprudence on economic, social and cultural rights as a guide to devising effective social programmes in these areas. These include the International Covenant on Economic, Social and Cultural Rights and the guidance on its implementation offered by the UN Committee on Economic, Social and Cultural Rights.

Amnesty International also urges the government to ground all aspects of public policy in the principle of the indivisibility and interdependence of all human rights. Denial of economic and social rights, such as chronic hunger and extreme poverty, are

---

inextricably linked to civil and political rights abuses, such as police killings and unequal access to justice. If they are to be effective, policies to address these issues should embrace a holistic approach to human rights, one that recognizes that freedom from want and freedom from fear are both inseparable aspects of human security.

### **Extrajudicial and Unlawful Killings:**

It is in this context that Amnesty International wishes to emphasise its continuing concerns regarding human rights violations as a result of measures aimed at combating crime. Over the last ten months human rights violations and abuses by state officials continue to rise. According to official figures police killings in São Paulo rose 31% by September of this year with 664 civilians killed.<sup>1</sup> Similarly in Rio de Janeiro members of the state police forces killed 917 by September, a rise of 36% on last year and more than three times the number killed in 2000.<sup>2</sup> Many of are reported to be extrajudicial executions or unlawful killings. Often poor young working men are targeted for little reason other than their social background. Unfortunately all too often these killings are dismissed as ‘resistance followed by death’, as the victim is branded the aggressor, and thus no investigation takes place. In fact many serving or former police officers have been linked to “death squads”, believed to be responsible for systematic killings of adolescents as well as involvement in organised crime. The Brazilian government recently took an important step when it presented the Special Rapporteur on Extrajudicial, Summary and Arbitrary Executions with a report stating that “death squads” are active in at least 14 of the country’s 26 states.

Nevertheless, attempts to recognise and address these problems have been undermined by a number of state governments, certain politicians and public officials as well as specific elements within the media, who have sought to justify repressive policing methods in the context of a public security crisis. As demonstrated elsewhere, Amnesty International stresses that “security” measures, which are not based on respect for human rights, have failed to dispel public fears or provide prolonged solutions to high levels of crime.

### **Human Rights Defenders:**

Extrajudicial executions and unlawful killings by police predominantly occur in the context of organised crime and corruption. It is largely those who work in the defence of human rights who have put themselves at risk to denounce links between state authorities and organized crime, as happened in the states of Espírito Santo and Acre

---

<sup>1</sup> Figures from São Paulo Police Ombudsman’s office.

<sup>2</sup> Figures from State Secretary for Public Security’s website:  
[http://www.novapolicia.rj.gov.br/f\\_aisp2.htm](http://www.novapolicia.rj.gov.br/f_aisp2.htm)

---

among others. Yet it is these same human rights defenders who are relentlessly discredited as being ‘defenders of criminals’ by conservative elements in both the media and the authorities. Today, human rights defenders – lawyers, activists, journalists, relatives of victims or witnesses to crimes – increasingly face threats, attacks and even killings, as they continue to fight for the rights of all to enjoy the same protections under the law. The work of human rights defenders is fundamental to any free and fair society and must be protected by law and supported by the authorities.

### **Rural Violence:**

In rural areas the struggle for land and ancestral rights has seen other socially excluded groups suffer attacks and killings. This year has seen a dramatic rise in the number of indigenous people killed, with over 20 killings of which the majority was related to their struggle for land rights. Failures by the authorities to ensure the due process of land demarcation for indigenous peoples, in the face of vested political interests, have undoubtedly contributed to this rise. Similarly, with increased tensions surrounding land reform, landowners continue to kill and abuse land activists in the certainty that they will not be brought to justice. This year over 50 land activists have been killed across the country, with many others being attacked and several being detained under what are widely believed to be politically motivated charges.

### **Torture & Prisons:**

The Brazilian authorities must address what has in effect become a two tiered justice system, which has only sought to protect part of the population. The criminal justice system continues to sustain this divide as it consistently addresses issues of public security by targeting those with least access to justice or protection from the state with increasingly counterproductive punitive measures. With 285,000 detainees held in a prison system, which is designed to hold only around 180,000 it is clear that the system cannot support these numbers for much longer. However, according to state estimates the prison population could reach 300,000 by the end of the year.<sup>3</sup> Torture is often one of the main tools used to hold together a prison system on the verge of collapse. What is more, torture and ill treatment, including anything from beatings to electroshock treatment, have become *de facto* replacements for modern policing techniques. Today torture continues to be used as a means of extracting confessions, or, increasingly, to extort money or to serve the criminal interests of corrupt police officials. Even in the wake of extensive national and international denunciations these crimes persist largely unpunished.

---

<sup>3</sup> Figures from National Prisons Department (DEPEN) and National Council of State Secretaries of Justice.

---

Amnesty International recognises that violent crime is one of many complex social and economic issues that the government must confront. Nevertheless, torture and unlawful killings will never be the basis upon which secure societies can be built. Insecurity feeds on social and economic exclusion and repression and as such will only be overcome once fundamental rights are guaranteed for all under the rule of law.

**Conclusion:**

Yet, the struggle for human rights is not without hope. First of all Amnesty International welcomes the openness with which the Brazilian government has made a standing invitation to all representatives of the UN Special Mechanisms. The recommendations made by UN Special Rapporteurs, as well as those made by UN treaty oversight bodies and the Inter-American Commission of Human Rights, are an important guide and benchmark by which the Brazilian authorities can establish proposals for reform and change. The full and effective implementation of these recommendations will form the basis upon which long-term security and justice for all can be constructed.

Amnesty International is also aware that the Brazilian government has already made significant proposals to address the human rights situation in Brazil today. Among several proposals the plan for deep-seated restructuring of the police, set out in the *Sistema Único de Segurança Pública* (SUSP) Single Public Security System stands out as a long-term approach to the public security situation. These reforms should be the basis for creation of a police force which is efficient, transparent and respectful of the human rights of all. Amnesty International will follow the implementation of these reforms carefully. Among other proposals, the Special Secretariat on Human Rights, in collaboration with state and federal authorities as well as members of civil society, has developed a comprehensive plan for the protection of human rights defenders. Amnesty International believes, that if fully implemented, this plan should stand as an example for the rest of the region.

Nonetheless, without the necessary political will, financial backing and a clear and unambiguous condemnation of all human rights crimes from the very highest political office, these reforms will not end the systematic violations suffered by so many. The fight for human rights in Brazil continues to be hampered by short-term political interests and a long tradition of impunity. The Brazilian government has a vital role to play to ensure that at national and international level Brazil complies with its responsibilities under international human rights legislation, ensuring that the human rights of all Brazilians are respected and that those who suffer violations receive equal and prompt access to justice and redress.

Amnesty International acknowledges that the responsibility to change this long pattern of human rights violations falls beyond the scope of the Brazilian government

---

alone. State governments have long been protected from international condemnation and international judicial rulings under the federal system, yet they have a fundamental part to play in reversing the trend of systematic violations and abuse. Similarly, legislators have a duty, not only to ensure the passage of necessary and effective reforms, but also to ensure that they are properly implemented when passed. Finally members of the criminal justice system, be they judges, public prosecutors or law enforcement officials also have a responsibility to ensure that all have equal access to justice and security and that those who commit human rights violations are duly punished. Amnesty International recognises that across the country many working in these sectors have provided invaluable work in the defence of human rights at great personal risk. Through their experience and other examples of good practice, the defence of every Brazilian citizen's rights can one day be guaranteed.

With this in mind Amnesty International welcomes this opportunity for dialogue and offers these concrete recommendations for the government as a basis for Brazil's contribution to the defence of human rights in Brazil, throughout Latin America and across the globe.

### **Recommendations:**

- Amnesty International stresses that all governments must take responsible and concerted action to control the proliferation, possession and misuse of arms in line with international law. The organization recognises the efforts made by the Brazilian government to pass legislation to control the carrying of arms as an important first step in controlling a trade which has contributed to extensive human rights violations around the globe. As part of Oxfam, IANSA and Amnesty International's international campaign to control the arms trade, Amnesty International calls on the Brazilian government to offer itself as a sponsor for the adoption of an international Arms Trade Treaty by the time of the 2006 UN review conference on small arms in line with the recommendations of the campaign.
- Amnesty International welcomes the unprecedented efforts of the Brazilian authorities and members of civil society who have worked to produce the first broad national plan for the protection of human rights defenders in Brazil and in the region. This plan regarding the protection and recognition of human rights defenders should be afforded the maximum political and financial support to ensure its full and urgent implementation at all levels. Furthermore Amnesty International calls on the Brazilian government to build on this

---

experience by promoting it throughout the region, urging all regional governments to set up similar plans. These plans should include multi-disciplinary proposals at the political, legal and practical levels, which aim to improve the environment in which human rights defenders can operate as well as ensure their immediate protection.

- Amnesty International urges the Brazilian government to implement its deep-rooted public security reform proposals, as set out in the SUSP, as a step towards ending the extensive repression and exclusion that underpins the Brazilian criminal justice system today. These reforms must include independent mechanisms of transparency, oversight, investigation and broader access to justice, as recommended in numerous international and national reports presented to the government. They should work in conjunction with the government's social reforms so as to guarantee all Brazilians equal access to full security as well as social justice. Amnesty International urges the Brazilian government to ensure that all state governments fully implement the SUSP and that its implementation is thoroughly monitored. Furthermore, the new National Secretary for Public Security should publicly commit himself to ensuring that the SUSP will be continued and that it will be based on human rights principles. It is vital that both the federal and state governments do not sacrifice human rights measures for short-term political expediency. The protection of all human rights, in conjunction with economic and social reforms, is essential to achieving long-term social justice.





