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Mr. Michel Forst
Special Rapporteur on the Situation of Human Rights Defenders

c/o Office of the High Commissioner for Human Rights, United Nations Office CH- 1211
Geneva, Switzerland

Via e-mail: defenders@ohchr.org

Ref: Worsening of human rights defenders (HRDs) situation in Brazil and crisis in the country's protection policy of HRDs.

Summary

Justiça Global, Terra de Direitos, Conselho Indigenista Missionário (CIMI), Comissão Pastoral da Terra (CPT), Article 19 and Sociedade Maranhense de Direitos Humanos (SMDH) hereby inform about the increasing worsening of the situation of violations and threats to human rights defenders (HRDs) in Brazil and the serious crisis currently taking place in the country's protection policy for HRDs, especially regarding the issue of the right to land and territory. Since the beginning of this year, eight (08) HRDs have been killed and a high number of threats and attacks have been registered by civil society organizations and movements, a setting that is part of a context of long-standing setbacks which escalated in the second semester of 2015. This situation coincides with the cabinet reshuffle carried out by the federal government^{1,2} and the consequent worsening of the fragility of the Programa Nacional de Proteção a Defensores de Direitos Humanos (PPDDH - National Program for the Protection of Human Rights Defenders), which, for 11 years, has continually presented serious operational, effectiveness and institutional problems, despite

¹ <http://www.brasil.gov.br/governo/2015/10/entenda-a-reforma-ministerial-e-saiba-como-fica-a-esplanada>

² <http://politica.estadao.com.br/noticias/geral,pepe-vargas-se-despede-da-pasta-de-direitos-humanos-antes-de-dilma-anunciar-reforma,1771004>

constant recommendations by the civil society. The organizations subscribing this document, members of the Comitê Brasileiro de Defensoras e Defensores de Direitos Humanos (Brazilian Committee of Human Rights Defenders), which helped to create and has been monitoring, since 2004, Brazil's indispensable protection policy, express their great concern and issue some recommendations.

Detailed report

Over the **first two months of 2016 alone, civil society organizations have registered eight (08) cases of murder** of human rights defenders in the country, **all concentrated in Brazil's north and northeast regions**, as well as a general worsening of HRDs situation.

On January 7, Nilce de Souza Magalhães, age 58, also known as 'Ncinha', fisherwoman, leader and advocate for the Movimento dos Atingidos por Barragens (MAB, Movement of People Affected by Dams), disappeared. MAB had been denouncing the impacts caused by the hydroelectric plant of Jirau, for which the Energia Sustentável do Brasil company (ESBR) is responsible. Later, those accused of the crime would confess having executed Nilce and throwing her body into a river in the region. On January 23, peasants Enilson Ribeiro dos Santos and Valdiro Chagas de Moura, leaders of the Liga dos Camponeses Pobres (LCP, Poor Peasant League), were persecuted and executed by gunmen. LCP's actions support the right to land and resulted in a strong tension with landowners in the area where both men were located. A few days later, on the 31st, a charred, unidentified body was found near the Fazenda Tucumã, Line C-114, also known as Fazenda do Japonês, an area where two landless young men have been missing since that date. This leads HRDs and local movements to believe that the body found could be of one of the missing youngsters. The four cases occurred in the state of Rondônia, where the context is especially critical for human rights defenders in rural areas. On January 22, another murder took place: the President of Assentamento Irmã Daniela and leader of the Movimento de Libertação dos Sem Terra (MLST, Movement for the Liberation of Landless People), Edmilson Alves da Silva, age 35, was murdered in that agrarian reform center in Japaratinga, North Coast of the state of Alagoas. Two men on a motorcycle approached the human rights defender and shot him in the head. In Maranhão, Ronni dos Santos Miranda, rural worker and leader of the Sindicato dos Trabalhadores e Trabalhadoras Rurais (STTR – Rural Workers Union) of the city of Amarante, was also executed with shots to the head on February 1st. On the next day, Francisca das Chagas Silva, another STTR leader, was found dead in Miranda do Norte, in that same state. The body presented signs of rape, strangulation and perforation. A few days later, on the night of February 4 and also with shots to the head,

psychologist, anti-asylum activist and human rights defender Marcus Vinicius de Oliveira was killed in an ambush because of his work in the mediation of conflicts between rural communities and land owners in the city of Jaguaribe, in the state of Bahia. On February 12, Luiz Antonio Bonfim, leader of Partido Comunista do Brasil (PCdoB – Communist Party of Brazil) and head of a landless workers occupation in Fazenda Tabocão, in the Brejo Grande do Araguaia community, city of São Domingos do Araguaia, state of Pará, was assassinated with six shots by gunmen.

The cases reported here are part of a scenario of violations that has been aggravated by the escalation of violence against HRDs in specific contexts that need to be highlighted.

Regarding the rural context, according to data from Comissão Pastoral da Terra, in 2015 there were 50 deaths, 144 people threatened and 59 attempted murders in conflicts in rural areas in Brazil. The states of **Rondônia, Pará and Maranhão concentrate 90% of these cases**. From 2010 to 2015, there were 219 deaths and 300 attempted homicides due to agrarian conflicts in the country. Less than 6% of cases of HRDs murders are investigated in Brazil.

Historically, the situation in the state of **Pará** is one of the most alarming in the country. Also according to CPT data, of the 23 people killed in conflicts over land and territory in the first semester of 2015, only one did not occur in the Amazon region³. At the end of that same year, a series of seven killings of HRDs rural workers was registered in the city of Anapu, where missionary Dorothy Stang was killed.⁴ Since her death in 2005, 334 murders have been registered in rural areas in Brazil, 118 of which occurred in Pará – which amount to 35.3% of the total.⁵ According to the organization, six of the seven deaths occurred in conflicts related to Lote 83 of Gleba Bacajá, owned by Regivaldo Pereira Galvão, known as Taradão, who was convicted for the murder of Sister Dorothy, but is not in prison. In 28 years, only 21 out of the 428 homicides from disputes in rural areas of Pará have been judged⁶.

Also in the northern region, an alarming escalation of violence and criminalization of HRDs is in progress in the state of **Rondônia**, where landless rural workers and peasants, both male and female, are submitted to evictions, assaults, threats, robbery, harassment and murders. In 2015, the

3 The role of business and States in violations against human rights defenders of land rights, the right to territory and rights related to the environment.

4 <http://g1.globo.com/pa/para/noticia/2015/11/comissao-pastoral-da-terra-denuncia-onda-de-assassinatos-em-anapu-pa.html>

5 <http://www.cptnacional.org.br/index.php/publicacoes/noticias/conflitos-no-campo/2418-dez-anos-apos-morte-da-missionaria-dorothy-stang-para-ainda-vive-conflitos-violentos-no-campo>

6 <http://www.cptnacional.org.br/index.php/publicacoes/noticias/conflitos-no-campo/2418-dez-anos-apos-morte-da-missionaria-dorothy-stang-para-ainda-vive-conflitos-violentos-no-campo>

state emerged on the national scene as the one with the highest number of deaths in agrarian conflicts: 20 workers, male and female, many of the cases with characteristics of execution⁷. As reported, in the beginning of the year alone, there have already been at least three episodes involving HRDs, which are also subject to a strong delegitimization and disqualification campaign by the police, local press and their main intimidators, major landowners. On February 03, heavily armed gunmen were arrested, holding weapons of restricted use by the armed forces, for having attacked a police car that was investigating the disappearance of landless youngsters in Vale do Jamari⁸. In 2015, in a Military Police special operation, some men admitted, after being arrested, that the weapons found in their possession were used for personal and family protection of a local landowner. The accountability of the perpetrators of these violations, however, remains almost non-existent, as well as the implementation of agrarian reform in the area. Violations in this state have reached even the Associação de Correspondentes da Imprensa Estrangeira (ACIE, Foreign Correspondent Association) in February 2016, when journalist Juliana Barbassa and photographer Bear Guerra had their communications equipment stolen, according to the CPT, soon after the state government ordered the police not to cooperate with the coverage that these professionals were making in a violent and politically sensitive area. They were working for Americas Quarterly and US News & World Report magazines. It is important to point out that other situations of serious violence against peasant families have been taking place in the states of Mato Grosso and Amazonas.

The issue of indigenous peoples in Brazil is also chronic and is getting worse. According to a report by Conselho Indigenista Missionário (CIMI)⁹, in 2014 alone, 138 indigenous human rights defenders have been murdered in the country as a result of land conflicts, with 29% of these deaths occurring in the state of **Mato Grosso do Sul**. 137 native Brazilians committed suicide and 785 children died from lack of access to basic health rights in that same year. Such data, once again, have a higher incidence in the state of Mato Grosso do Sul and directly affect the Guarani-Kaiowá people, with the advance of sugarcane, soybean and corn agribusiness being the main generator of attacks on indigenous individuals in the region. According to CIMI – which, by the way, suffers a strong attempt of criminalization by some lawmakers linked to agribusiness interests in that state¹⁰ – there is a recent and notable escalation in such a context after judicial decisions favorable to the

⁷ <http://www.cptnacional.org.br/index.php/publicacoes-2/destaque/3099-nota-publica-o-campo-em-rondonia-um-barril-de-polvora>

⁸ <http://www.cptnacional.org.br/index.php/publicacoes-2/destaque/3099-nota-publica-o-campo-em-rondonia-um-barril-de-polvora>

⁹ <http://www.cimi.org.br/File/Relatorio%20Violencia%20-%20dados%202014.pdf>

¹⁰ http://www.cimi.org.br/site/pt-br/?system=news&conteudo_id=8536&action=read

Guarani-Kaiowá, as well as after the murder of one of their leaders, Simião Vilhalva¹¹. The organization has received several reports of attacks by gunmen and private security guards, which invest in intimidation, threats and attacks. In a number of Brazilian regions, there is a spread of prejudice and hate speeches towards indigenous people, motivating episodes of gratuitous violence¹².

There is also an intensification of attacks and threats to indigenous people in the state of **Maranhão**. One must remember that in April 2015, leader Eusebius Ka'apor¹³ was killed by masked men and, in December 2015, there was another ambush, resulting in two indigenous individuals being shot¹⁴. Since 2013, this people has been fighting for the autonomy of their territory, which, although recovered, still suffers attempts of control by wood merchants. In that same state, individuals from the Gamela people, in a struggle for the demarcation of their traditional territory, have suffered with shooting attacks and death threats, after recovering three farms that overlapped their land in November and December 2015¹⁵. In all these cases, the lack of accountability of landowners and gunmen prevails and the reflection of delay or lack of demarcation of indigenous lands is identifiable. It was requested that the cases involving the two indigenous peoples are included in the Programa Nacional de Proteção a Defensores de Direitos Humanos (PPDDH), but according to CIMI, the procedures have not advanced and there was no answer from the state.

It is noteworthy that, in this context, the **free flow of information** in the country is also facing difficulties. In Brazil, according to a survey conducted by Artigo 19, between 2012 and 2014, there were 86 cases of serious violations against communications professionals, namely homicides, attempted murders and death threats, and 70% of these violations were allegedly perpetrated by officials from governmental agencies, especially politicians. The main motivation for such violations is the submission of complaints of irregularities in the public administration. The level of impunity in such cases is high, which contributes to creating a hostile environment for the submission of criticism, complaints and investigations of government officials, who are often involved in violations of the aforementioned contexts. According to data from the Committee for the Protection of Journalists, Brazil has recorded the highest number of press professionals being

¹¹ <http://www.cartacapital.com.br/blogs/parlatorio/mais-um-capitulo-sangrento-da-saga-guarani-kaiowa-6501.html>

¹² As in the shocking case that took place on December 30, 2015, with the brutal murder of a boy named Kaingang Vitor Pinto, 2 years old only, whose throat was cut while being fed in his mother's arms, the native Brazilian Sonia da Silva, in front of the bus station at Imbituba-SC.

¹³ <http://www.cimi.org.br/site/pt-br/?system=news&action=read&id=8089>

¹⁴ <http://www.cimi.org.br/site/pt-br/?system=news&action=read&id=8563>

¹⁵ <http://www.cimi.org.br/site/pt-br/?system=news&action=read&id=8510>

murdered over the last 23 years. Last year alone, 06 deaths were recorded in the country; such number would rank Brazil as the third most dangerous country for the practice of journalism, ranked behind Syria (13 deaths) and France (which recorded 09 cases due to the attack on Charlie Hebdo) ¹⁶.

Finally, it is important to emphasize that in the **legislative area** there has been a combination of conservative forces linked to the market, to religious groups and agribusiness, which is completely unfavorable to human rights. In 2015, the country experienced significant setbacks in the field of human rights, such as the Proposed Constitutional Amendment (PEC) 215/2000, which affects indigenous peoples and *quilombolas* across the country by transferring to the Legislative Branch the power to demarcate territories; and the (PL) 2016/15 bill, which typifies the crime of terrorism, among others¹⁷. The 2016/2015 bill was approved by Congress and is now awaiting sanction or veto by President Dilma. Civil society and social movements point out that this bill of law intends to intensify the criminalization of social movements, since the country has not experienced terrorist threats. If approved, the current state of criminalization of HRDs tends to increase, with the approval of the Brazilian state.

Protection policy crisis

This context confirms the extreme weakening of the protection policy for HRDs in Brazil over the last years, which is caused by the Brazilian state failing to prioritize the human rights agenda. Civil society has repeatedly warned about such weakening, mainly through the Brazilian Committee of Human Rights Defenders, which brings together various organizations. It regularly sends letters pointing out problems and challenges identified by the Committee itself and by human rights defenders, whose cases are followed by organizations. In addition to this, the Committee issues recommendations¹⁸. The October 2015 cabinet reshuffle that unified the Secretariat for

¹⁶ <http://politica.estadao.com.br/noticias/geral,110-jornalistas-foram-assassinados-em-todo-o-mundo-em-2015--diz-ong,1816358>

¹⁷ Such as PL 7735/2014, which privatizes nature and traditional knowledge; PL 4148/2008, which exempts companies from labelling genetically modified food; casualization of labor rights through outsourcing provided by PL 4330/2004 and PEC 171/1993, which proposes the reduction the penal age.

¹⁸ Some of the letters can be found at: <http://terradedireitos.org.br/wp-content/uploads/2015/10/Carta-Comit%C3%AA1.pdf>, <http://terradedireitos.org.br/wp-content/uploads/2015/03/Carta-para-o-Secret%C3%A1rio-Nacional-de-Promo%C3%A7%C3%A3o-e-Defesa-dos-Direitos-Humanos.pdf>, <http://global.org.br/programas/carta-do-comite-brasileiro-de-defensoras-de-direitos-humanos-2014/>, <http://terradedireitos.org.br/wp-content/uploads/2013/12/CARTA-DO-COMIT%C3%8A-BRASILEIRO-DE-DEFENSORAS-2013-1-Erina.pdf>, <http://www.ecodebate.com.br/2012/12/17/carta-do-comite-brasileiro-de-defensoras-de-direitos-humanos-a-ministra-da-secretaria-de-direitos-humanos/> e <http://global.org.br/wp-content/uploads/2010/11/Comit%C3%AA-Brasileiro-de-Defensoras-2010.pdf>.

Women's Policies, the Secretariat for Human Rights and the Secretariat for the Promotion of Racial Equality is inserted in this setting and represents a major setback in human rights policy, since these Secretariats, now deprived of their ministry status, are paramount to the implementation of public policy and have always worked with insufficient resources.

The current situation also shows, once again, the lack of confrontation by the Brazilian State of the structural causes generating such situations of risk, threat and attack to human rights defenders. Failure to guarantee the right to land and territory, as well as the agrarian conflicts secondary to such failure, are some of the main reasons for violations. It is important to note that government agencies responsible for land tenure regularization, such as the National Institute of Colonization and Agrarian Reform (INCRA) and the National Indian Foundation (FUNAI), have been undergoing a dismantling process, receiving increasingly fewer resources. The weakening of these agencies increases the pressure on territories, intensifies the conflicts and subjects HRDs to increased vulnerability.

With regard to the National Program for the Protection of Human Rights Defenders (PPDDH), a legal framework has not been approved in Brazil yet, although a bill of law is waiting to be appreciated by the Congress¹⁹. Thus, PPDDH does not exist legally as a State policy, being supported only by the Presidential Decree No. 6.044, dated February 12, 2007, and is at risk of being terminated at any time. Brazil is a federation, and member states have autonomy in managing public security and justice. Therefore, the consequence of the lack of legal provision is that state agencies and institutions and even federal agencies from other branches of government are not obliged to adhere to the policy. After more than 10 years, only six (06) out of the 26 Brazilian states have a protection program; only three out of these six are operational (Pernambuco, Espírito Santo and Minas Gerais) and the other three have signed agreements, but are not currently operational (Bahia, Ceará and Maranhão). Recurrently, state programs are temporarily suspended due to complications in the agreements and fund allocation, which also affects the program's federal staff.

Moreover, the program lacks a methodological framework; there are only very broad guidelines on the implementation of the protection policy²⁰. In a country with such continental dimensions as Brazil, the remoteness of the PPDDH's federal team²¹ from such diverse and complex realities leaves HRDs in an extremely fragile situation before their tormentors. It is

¹⁹ <http://www.camara.gov.br/sileg/integras/702658.pdf>

²⁰ The non-governmental organizations implementing programs at the state level are developing and consolidating more concrete methodologies, based on the experience they have acquired, but they lack a unifying official methodological framework.

²¹ This Brasília-based team takes care of the numerous cases in the 20 plus states that are not assisted by protection programs or where the program is suspended.

important to highlight the lack of procedures to properly assess the risk defenders face within the particularities of their contexts; it poses serious difficulties, preventing the technical team from efficiently and readily dealing with possible emergencies. Several HRDs working in the PPDDH report being monitored by the federal staff by telephone only. Such limitations also result in a number of cases of HRDs at high risk not being included in the program, since in the event of them being included, PPDDH is not able to ensure the protection of these HRDs. This procedure, it is important to explain, is one of the practices that ensures that no HRD included in the program is murdered – this result of 0 (zero) deaths is widely promoted by the Brazilian state in the international arena.

In 2015, the civil society organizations integrating the deliberative PPDDH collegial body – the National Coordination – had little say during the program discussions, since the meetings, organized by the Secretariat of Human Rights (SDH), were increasingly less constant: the last meeting was held in August, with a total of only two over a year – they used to be held monthly. Soon after, with the cabinet reshuffle, organizations were informed that the next meeting, scheduled for October, would be canceled. The lack of transparency and dialogue on the part of SDH is becoming a serious problem regarding the PPDDH. In the last two hearing requests by the Brazilian Committee of Human Rights Defenders, the Secretariat's responses were negative or non-existent, as well as on several occasions (meetings, events) promoted by the civil society in 2015 for which SDH was invited but did not attend (although having confirmed its presence).

This setting points to a further weakening of protection policies. Organized civil society has not received any information on the progress of the program: what is the situation of the program's institutionality within the new ministry? How is the inclusion of new cases being conducted? When will we have National Coordination meetings? Those are all information civil society needs in order to follow the progress of this important policy, which is essential for human rights defenders, both male and female, in Brazil.

Given the above, it is very likely that the data herein mentioned will increase in 2016. The information herein presented is extremely worrying and incompatible with a country that claims international legitimation based on its protection policy. It is necessary and urgent that the Brazilian State advances the implementation of such a policy that is essential both for Brazil's commitment to ensuring human rights and for the whole of the human rights field.

Thus, we, organizations of the civil society, hereby recommend the following actions.

Recommendations

To the Brazilian State:

- To recognize the legitimacy of the work of human rights defenders, in accordance with the 1998 Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms;
- To effectively address the structural causes that generate risk situations and attacks to HRDs in Brazil, according to the cases presented. It is urgent to prioritize the demarcation of lands of indigenous, *quilombolas* and traditional populations in general, as well as to implement agrarian reform. Therefore, INCRA and FUNAI cannot continue to suffer cuts in their budgets.
- To respect and apply the ILO Convention 169, which assists in full the rights of indigenous peoples, *quilombolas* and traditional communities. The right to prior, free and informed consultation on actions that could superimpose their territories is one of the guarantees provided for in the treaty;
- To prioritize, put into effect, strengthen and maintain a comprehensive protection policy for HRs defenders that articulates the different public policies and agencies that are critical to both;
- To put into effect and strengthen the Programa Nacional de Proteção a Defensores de Direitos Humanos, giving it a consistent institutional framework as a state policy of high priority, with: a legal framework that establishes the status of public policy; transparency in the functioning and effective participation of civil society; transparency of information, provided it does not harm the protection of HRDs;
- To establish and improve, with the participation of organized civil society – with its historical knowledge and experience in the subject – a methodological framework for the PPDDH that provides adequate training for the program staff members and ensure a wide and effective range of protective and security measures to the assisted defenders;
- To improve the justice system so that there is accountability for the perpetrators of violations to HRDs and ensure that the victims have access to appropriate compensations;
- To promote a broad campaign on the work of human rights defenders and their right to freedom of expression and activism;
- That the Brazilian Government does not sanction PL 2016/2015, which typifies the crime of terrorism.

To the Special Rapporteur on Human Rights Defenders/UN:

- To promote visibility and pay special attention to the vulnerability of human rights defenders in Brazil, especially those who advocate for the rights to land and territory;
- To monitor the cases of attacks, threats and criminalization against human rights defenders, including this dimension as a cross-sectional area to the work of different agencies, commissions and mandates of the Special Rapporteurs;
- To carry out a visit/mission to Brazil still in 2016 in order to achieve a deeper understanding of the context of Brazilian human rights defenders and the worsening of situations of conflict that render them vulnerable, so as to provide an analysis of the 10 plus years of the implementation of the PPDDH;
- To present the perspectives of international standards that may contribute to the improvement of Brazilian national protection policies.

We thank you for your understanding, and look forward to your reply.

Artigo 19

Conselho Indigenista Missionário

Comissão Pastoral da Terra

Justiça Global

Sociedade Maranhense de Direitos Humanos

Terra de Direitos



Sandra Carvalho

Justiça Global