Human Rights in Brazil 2009

A Report by the Network for Social Justice and Human Rights

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PREFACE

As the years go by, it is natural that we should look back at the path we have followed, question where it has led us, and predict our progress for the future. This is the task that I will undertake at the kind invitation of the Social Network for Justice and Human Rights.

In a society as unjust and unequal as that of Brazil, the struggle for human rights can often resemble the fate of Sisyphus: our actions at once seem timely and yet incapable of breaking the structures of injustice and inequality. However, although serious human rights abuses still frequently occur, we have also witnessed the first steps towards a public policy of human rights in Brazil, exemplified by our recognition of the vital role that civil society plays in defining, administering and monitoring that policy.

For ten years, the Social Network for Justice and Human Rights has tasked itself to present society with the most comprehensive depiction possible of the state of human rights in Brazil, producing a record of rights violations alongside theoretical and political essays in their defense. Although the catalogue of abuses bears witness to the persistence of ignorance and misconduct, one look at these reports will demonstrate that, despite many obstacles, human rights are successfully gaining formal recognition.

As the reports show, Brazil's active, energetic, and dedicated coalition for human rights gathers together a host of organizations, associations, social and activist movements from a variety of backgrounds. This simple observation is in itself an important advance, because we have seen that human rights cannot be effectively implemented without recognizing their essential indivisibility and interdependence; not without uniting, in other words, each of society's particular struggles for a better and more just life.

To expand the human rights struggle in Brazil is not without risk, particularly that of losing society's transformative dimension, the force driving the historical search for liberty, equality, and solidarity. To some extent, as Boaventura de Sousa Santos has said, human rights serve in the present time as a standard of society's emancipation. But this point of reference needs to be more solid and concrete than the everyday—and deceptively subtle—relations of power.

If, on the one hand, we must accept that this risk remains a permanent, undeniable possibility, particularly when considering the many collective emancipation projects that

have failed to alter the status quo, we must be careful not to be ashamed of defeat, an attitude which helps to perpetuate all that we would change. Over the course of time, gradual changes can become significant; in any case, it is vitally important to honor all effort and sacrifice, both past and present.

I am overjoyed to see that the language of human rights has spread so widely, reshaping the rhetoric of countless social projects which were once considered separate and distinct. The struggles for land reform, for water, shelter, and adequate food, for the democratization of information and the media, for non-discrimination, and for a society free of violence, have all been incorporated into the broader defense of human rights.

At the same time, I cannot ignore the ambiguity of the State with regards its duty to promote and protect human rights, when it often acts to violate those rights. The Department of Public Prosecutions and the Judiciary are not free from this ambiguity, as demonstrated most clearly in facts and allegations regarding the criminalization of social movements, with decisions which consistently prioritize property rights, and which demonstrate a complete detachment from social realities. This brings us to another important challenge for the future: social organizations and grassroots movements must pressure the State to guarantee that human rights are effectively enshrined in public policy. This is especially important in the area of development, which overwhelmingly continues to be approached from a strictly economic and shortsighted position.

As we look to the future, it is vital that in monitoring the success of the National Human Rights Program, we take into account not just the traditional indicators of wealth and quality of life, but the concept of development itself.

Brasília, October 15th, 2009

Ela Wiecko V. de Castilho
Deputy Attorney-GeneralFederal Attorney for the Rights of the Citizen (2004-2008)
Law Professor at the University of Brasilia - UNB

INTRODUCTION

In 2009 we commemorated ten years of publication of the Report on Human Rights in Brazil. In addition to the principal human rights themes analyzed throughout the last decade, this edition also pays homage to the 117 organizations that have contributed to the Report throughout this period. This year, our 26 authors discuss the doctrines of human rights, making the material even more substantial for research and reference on the subject themes.

Thus, for example, we have a quite rich analysis of agrarian reform, with articles by three specialists in the area – Ariovaldo Umbelino de Oliveira, Full Professor of Agrarian Geography at the University of São Paulo, José Julinao de Carvalho Filho, Director of the Brazilian Agrarian Reform Association, and Antônio Canuto, from the National Coordinating Office of the Pastoral Land Commission.

José Juliano analyzes the data from the 2006 Agriculture and Ranching Census, recently released by IBGE (Brazilian Institute of Geography and Statistics), proving the maintenance of inequality in land distribution in Brazil. He writes: "This characteristic of our history answers, in good part, for other glaring inequalities of the Brazilian social system – income, land, education, security and much other privation." According to Ariovaldo Umbelino, there are more than 100,000 families camped in the countryside, and 800,000 registered with the agrarian reform programs, i.e., nearly 1 million families waiting for agrarian reform. "Studies estimate an additional 2.5 to 6.1 million families would be interested. For this reason, the landless workers in Brazil are definitely on the political agenda. They are conscious of their constitutional rights and are going to struggle. Thus there is a landless workers' movement in Brazilian society that is greater than those that make up the other social movements. For this reason, they will not stop growing, states Professor Umbelino. For Antônio Canuto: "It was not enough for the state executive powers and the judicial power to attack the poor in the countryside; they have also burst forth with a rare virulence within the National Congress. The Rural Caucus, which encompasses legislators from almost all parties, has the power to block executive projects. Their speeches attack the actions of the rural people, especially

those from Via Campesina and the landless, but exalt "the value and sacrifice of rural producers" and demand the extension or forgiveness of their debts with public banks."

Violence against indigenous peoples is again analyzed in the Report, and confirms the picture from prior years. "The view of the indigenous as allies or enemies persists in the imagery of the sectors linked to security forces, in the demand for guarantees of fidelity to the national state from an integrationist perspective, as a condition for realization of rights in frontier regions. In these regions the indigenous peoples seen as obstacles to economic development projects continue to be stigmatized, now as threats to national sovereignty, an argument that supposedly would legitimize denial of their fundamental rights." The analysis is that of Rosane Lacerda, an attorney specializing in indigenous rights and Professor of Public Law at the Federal University of Goiás.

The indigenous question is also addressed in the article by Luis Fernando Novoa Garzon, a member of the Brazilian Network for Oversight of International Financial Institutions, who writes on the development model for Amazonia and its impact on human rights. "In Amazonia, the first reckoning of accounts is with indigenous peoples. Their territories already drained by criminal invasion and clandestine exploitation, begin now to be legally transferred, so that their wealth can be accessed in a legal way by large economic groups. The second reckoning is with environmental legislation. More than proscriptions, the sectors that process natural resources, notably the electric sector, make demands on the State: a guarantee of a maximum level of profitability."

The Report also contains an analysis of the quilombola *communities* in Brazil. Josilene Brandão da Costa, a *quilombola* movement representative, assesses that in the twenty years of the Brazilian Constitution, the number of *quilombola* lands that have been titled does not show any disposition or commitment on the part of the State to guarantee land rights.

The slave labor situation in Brazil is analyzed by Ricardo Resende Figueira, Coordinator of the

Contemporary Slave Labor Research Group of the Center for Public Policies on Human Rights at the Federal University of Rio de Janeiro from 1985 to 2009. For the author, "The power of large land holdings, which is expressed in the so-called ruralist caucus of Congress, represents an impasse for any serious measure. Their power is expressed by the promiscuity of the authorities regarding slavery, whether they are directly involved or because they are accomplices."

The last ten years of the prison system in Brazil is analyzed by the legal advisor of the National Pastoral Office on Imprisonment, José de Jesus Filho. He states that "Brazil has the fourth highest number of prisoners of all countries. It also has the second highest number of prisoners per 100,000 inhabitants in South America. In January of

2009, the São Paulo Secretary of Penitentiary Administration announced the construction of 44 new prison units. If we add confined prisoners with those that are completing an alternative form of punishment we have approximately one million people being punished."

The Report shows that, in relation to violation of the rights of children and adolescents, the risk of a young black man being murdered is five times greater than that for a young white man. The analysis is made by Maria Helena Zamora, Vice-Coordinator of the Interdisciplinary Laboratory for Research and Social Intervention (LIPIS) of the Pontifical Catholic University – Rio de Janeiro. She writes: "In spite of the growth of income in recent decades, the percentage of poor blacks never fell below 64%. Although they represent 44.7% of the total population, blacks represent 70% of the 10% poorest, and no more than 16% of the 10% richest. The data on deaths point to the continuance of historical repressive and genocidal practices against this population."

Labor rights are analyzed by Clemente Ganz Lúcio and Patrícia Lino Costa, DIEESE researchers. "Despite the fact that growth has assuaged some of the structural problems of the labor market, it did not eliminate the large contingent of people looking for work, nor did it overcome the problem of informal work relations, and the high proportion of workers who have no access to legal benefits. The turnover rate of labor has increased due to the ease of dismissing workers. There is a high proportion of *autonomous* (informal) workers who have no social protection, in addition to the difficulties confronted by thousands of black people, youth and women in simply finding a good and well-paying job," affirm the authors.

Specialists in education, Mariângela Graciano and Sérgio Haddad, examine that subject, "The exclusion of young people and adults from among those considered as having the right to education can also be seen in the more than 14 million people who still do not have access to literacy, which represents 10% of the total population. Since 1981, illiteracy fell 13.2 percent, a rate considered low. Contrast this with the high rate verified in the Northeast: 20% of the population."

Attorney Beatriz Galli analyses the situation of reproductive rights over the past decade, specially the subject of maternal mortality, "Indices remain high and there is no indication that the country can obtain the Millenium objective of reducing maternal mortality by 75%. In this regard, there is a restriction of the capacity and freedom of women to live and achieve their life goals, which, to be fulfilled, would necessarily include the right to enjoyment of sexual and reproductive life that is healthy, satisfactory, informed, autonomous, free of discrimination, coercion or violence and, above all, free from avoidable maternal death. Criminalization of abortion by the current law contributes

to the high maternal mortality rates. Unsafe abortion is a sad reality, it being estimated that there are approximately 1 million abortions performed annually."

Climate is another theme presented in the Report this year. According to Sérgio Dialetachi, energy and climate change consultant of the Heinrich Böll Foundation, the greater part of Brazil's responsibility for global climate changes still is due to "modifications in land use." The author states: "According to the National Inventory of Sources of Emission of Greenhouse Gases, prepared by the Ministry of Science and Technology, the felling of forests, burns, degradation of ecosystems, ranching and agriculture are our activities that most contribute to global warming. The importance of modifications in land use is not only owing to the quantity of carbon that can be released into the atmosphere. The conservation of forests and of fertile land bears a direct relationship to protection of the water table, the flow of water, the rain regime, the capacity for cooling the atmosphere, maintaining biodiversity, protecting the soil and recycling of nutrients, among other aspects."

A variety of other subjects are also addressed in the Report, in accordance with our objective to contribute to a broad discussion of human rights in Brazil. Our intent is to relay facts, but also to discover the structural causes of the violations of fundamental rights. In this regard, the article by economist Guilherme Delgado affirms: "What is going to happen incontrovertibly regarding inequality in Brazil in the next decade cannot be foreseen with certainty. But, still, one can take a position. Social and agrarian policies are critical for improving the social inequality situation, and both depend crucially on redistribution of income, which only well structured public policies can achieve."

The Network for Social Justice and Human Rights thanks all the contributors who have made this work possible over the past ten years. We look forward to continuing on this path together.

HUMAN RIGHTS IN BRAZIL
10 YEARS: PARTNER ORGANIZATIONS

Ação dos Cristãos para a Abolição da Tortura
Ação Educativa
Aliança Estratégica Latino-Americana e Caribenha de Afrodescendentes
Assessoria do gabinete da vereadora Flávia Pereira (PT/SP)
Assessoria e Serviços a Projetos em Agricultura Alternativa (AS-PTA)
Associação Brasileira de Gays, Lésbicas e Transgêneros (ABGLT)
Associação Brasileira de ONGs (ABONG)
Associação Brasileira de Reforma Agrária (ABRA)
Associação Juízes para a Democracia
Associação Movimento Paulo Jackson Ética, Justiça, Cidadania
Articulação das Comunidades Negras Rurais Quilombolas
Articulação de ONGs de Mulheres Negras Brasileiras
Associação da Parada do Orgulho GLBT de São Paulo
Associação em Áreas de Assentamento no Estado do Maranhão (ASSEMA)
Campanha "Por Um Brasil Livre de Transgênicos"
Cáritas Brasileira
Central de Movimentos Populares de São Paulo
Central Única dos Trabalhadores (CUT)
Centro de Articulação da População Marginalizada (CEAP)
Centro de Cultura Luís Freire
Centro de Cultura Negra do Maranhão
Centro de Defesa dos Direitos da Criança do Adolescente Pe.Marcos Passerini
Centro de Direitos Humanos Evandro Lins e Silva
Centro de Estudos de Segurança e Cidadania (CESEC) da Universidade Cândido Mendes
Centro de Estudos e Ação da Mulher (SER MULHER)
Centro de Estudos e Ações Solidárias da Maré (CEASM)
Centro de Estudos Sindicais e de Economia do Trabalho da Universidade Estadual de Campinas
Centro de Estudos Sociais da Universidade de Coimbra
Centro e Atendimento às Vítimas da Violência (CEA/ES)
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Centro pelo Direito à Moradia contra Despejos – COHRE Américas

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Comissão de Anistia/Ministério da Justiça
Comissão de Direitos Humanos da Assembléia Legislativa de São Paulo
Comissão de Direitos Humanos da Câmara dos Deputados
Comissão de Direitos Humanos da OAB
Comissão de Direitos Humanos da Seccional Paulista da Ordem dos Advogados do Brasil (OAB)
Comissão de Direitos Humanos de Passo Fundo
Comissão de Familiares de Mortos e Desaparecidos Políticos
Comissão de Relações Étnicas e Raciais da Associação Brasileira de Antropologia
Comissão Organizadora de Acompanhamento para os Julgamentos do Caso do Carandiru
Comissão Pastoral da Terra (CPT)
Conselho Estadual de Direitos Humanos do Espírito Santo
Conselho Federal de Psicologia
Conselho Indigenista Missionário (Cimi)
Coordenação Nacional de Articulação das Comunidades Negras Rurais Quilombolas (CONAQ)
Criola
Departamento Intersindical de Estatística e Estudos Sócio-Econômicos (DIEESE)
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Federação de Órgãos para Assistência Social e Educacional (FASE)
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FIAN Brasil
FIAN Internacional
Fundação Abrinq pelos Direitos da Criança
Fundação Perseu Abramo
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Grito dos Excluídos Continental
Grupo de Pesquisa Trabalho Escravo Contemporâneo (GPTEC/NEPP-DH/UFRJ)
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Grupo de Trabalho Hegemonias e Emancipações da CLACSO
Grupo de Trabalho Interministerial "Mulheres Encarceradas"

Grupo Solidário São Domingos
Grupo Tortura Nunca Mais
Instituto Carioca de Criminologia
Instituto de Economia da Universidade Estadual de Campinas
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Instituto Superior de Estudos da Religião (ISER)
International Rivers Network (IRN)
Intervozes – Coletivo Brasil de Comunicação Social
Ipas Brasil
Jornal Brasil de Fato
Movimento das Mulheres Camponesas
Movimento dos Atingidos por Barragens (MAB)
Movimento dos Pequenos Agricultores
Movimento Humanos Direitos (MHuD)
Movimento Interestadual das Quebradeiras de Coco Babaçu (MIQCB)
Movimento Nacional de Direitos Humanos
Movimento dos Trabalhadores Rurais Sem Terra (MST)
Movimento Sem Teto do Centro (MSTC)
Observatório das Nacionalidades
Observatório de Favelas do Rio de Janeiro
ODH - Projeto Legal
Organização Civil de Ação Social (OCAS)
Ouvidoria da Polícia do Estado de São Paulo
Pastoral Carcerária Nacional
Pastoral Operária Metropolitana – SP
Plataforma Brasileira de Direitos Humanos Econômicos, Sociais e Culturais (Plataforma DhESC Brasil)
Procuradoria Federal dos Direitos do Cidadão
Programa Justiça Econômica – Dívida e Direitos Sociais
Projeto Brasil Sustentável e Democrático/Fase
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Rede de Ação e Pesquisa sobre a Terra

Rede Jubileu Sul
Revista Caros Amigos
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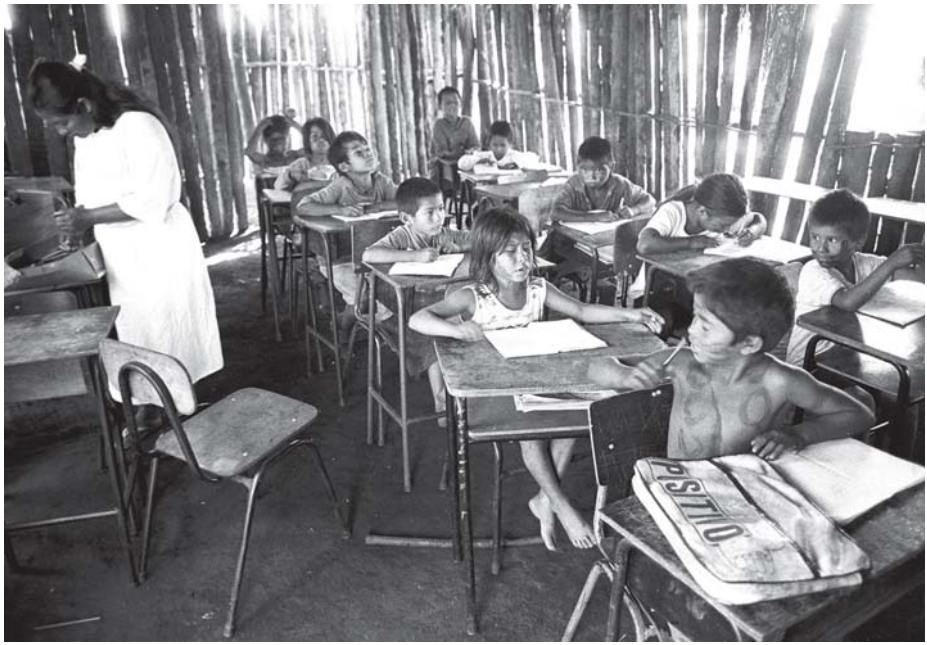
Via Campesina Brasil

I – HUMAN RIGHTS IN THE COUNTRYSIDE



Indigenous school in Pará

In the countryside there are more than 100,000 families in encampments. More than 800,000 are enrolled in agrarian reform programs. Therefore, there are currently more than a million families waiting for agrarian reform. Studies estimate an additional 2.5 to 6.1 million families would be interested. For this reason, the landless workers in Brazil are definitely on the political agenda. They are conscious of their constitutional rights and are going to struggle. Thus, there is a landless workers' movement in Brazilian society that is greater than those that make up the other social movements. For this reason, they will not stop growing.

Agrarian reform policy in Brazil

Ariovaldo Umbelino de Oliveira[1]

> *"No country, no matter how large, is justified in having someone who own more than 30,000 acres of land! Two million hectares of land! This cannot be justified anywhere in the world! Only in Brazil. Because we have a cowardly president, who remains dependent on the rural right-wing caucus to provide a few votes." (Luis Inácio Lula da Silva –Caros Amigos Magazine– November 2000).*

The roots of modern capitalist development in Brazil are in its character as a country where a great deal of wealth is generated by landowners who do not produce anything on their land. This means that the concentration of the private ownership of land acts as a process to concentrate wealth and capital. The situation developed mainly through the fusion of the capitalist and the landowner into one and the same person.

[1] *Ariovaldo Umbelino de Oliveira is Tenured Professor of Agrarian Geography at University of Sao Paulo – FFLCH – USP.*

Although this process had its origin in slavery, and in particular in the passage from slave work to free work, it was in the second half of the 20th century that this fusion increased significantly. Thus the so-called modernization of agriculture did not transform latifundio owners into capitalist businessmen, but on the contrary, transformed industrial and urban capitalists, especially in the Center-South region of the country, into latifundio owners. The policy of fiscal incentives by the Superintendency of Development for the Amazon (SUDAM) under the military governments was one of the tools of economic policy that made this fusion possible. The landowners possess areas in Brazil of dimensions never before registered in the history of humanity.

According to the statistics recorded by the National Institute for Colonization and Agrarian Reform (INCRA), in 1967 in total terms, Brazil had 3,638,931 rural properties. Of these, 1.4% (50,945) were classified as large properties (more than 1000 hectares) and took up 48.9% (176, 091,002 hectares) of the total area of 360,104,300 hectares. In 1978, the total number of properties was

3,071,085 and large properties represented 1.8% (56,546), occupying 57% (246,023,591 hectares) of the total area of 419,901,870 hectares. At the opposite end were small properties with an area less than 100 hectares. In 1967 they represented 86.4% (3,144,036) in number, but occupied an area of only 18.7% (67,339,504 hectares). In 1978, they represented 83.8% (2,581,838 hectares) occupying 14.8% (59,939,629 hectares) of the total area.

Thus the modernization of agriculture has been accompanied by a growing concentration of land ownership. This means that between 1967 and 1978, the big estates in Brazil grew in area by 69,939,589 hectares and the small properties lost 7,399,875 hectares.

Not even the growing struggle for land in the 1980s affected INCRA's statistics, which in 1992 continued to reveal the concentrated character of land in Brazil. In this year, the results continued to indicate that in Brazil there were 3,114,898 rural properties and among these, 43,956 properties (2.4%) had an area greater than 1,000 hectares and occupied 165,756,665 hectares (50%) of a total area of 331,364,012 hectares. At the same time, another 2,628,819 properties (84.4%), with an area smaller than 100 hectares occupied only 59,283,651 hectares (17.9%). Besides this, studies revealed that if INCRA enforced the provisions of Law 8.629 of 1993, they would have 115,054,000 hectares (20% of the total area) classified as large unproductive properties.

This, therefore, was the reason that the struggles for agrarian reform deepened in the 1990s, and the State had to respond with public policies for land settlements.

The most recent data available about the land structure of Brazil are from August 2003 and are contained in the Second National Plan for Agrarian Reform (PNRA II)

(Table 1). The analysis of its numbers allows us to verify a small alteration in the process of land concentration in the country. The large properties represent 1.6% of the properties (69,123) of a total of 4,238,421 rural properties, occupying 43.7% (183,463,319 hectares) of a total area of 420,345,382 hectares. At the same time, the small properties represent 85.2% of the total number of properties (3,611,429), occupying 20.1% of the area (84,373,860 hectares). Comparing the data from 1992 and 2003, it can be verified that there was a growth in the total area in the register of 88.9 million hectares, distributed unequally, because in this period the medium size properties made up more than half (52%) of the area that increased and the large properties made up 20%, while the small properties made up 28%. So it was a question of the action by the social movements struggling for land that developed in the country, in this national struggle of small Brazilian farmers to get access to land.

Table 1. - Brazilian Land Structure, 2003.

Groups of total numbers (in hectares)	Properties	% of Properties	Total area in hectares	% of area	Average area in hectares
Less than 10	1.338.711	31,6%	7.616.113	1.8%	5.7
From 10 to 25	1.102.999	26,0%	18.985.869	4.5%	17.2
From 25 to 50	684.237	16,1%	24.141.638	5.7%	35.3
From 50 to 100	485.482	11,5%	33.630.240	8.0%	69.3
From 100 to 200	284.536	6,7%	38.574.392	9.1%	135.6
Form 200 to 500	198.141	4,7%	61.742.808	14.7%	311.6
From 500 to 1000	75.158	1,8%	52.191.003	12.4%	694.4
From 1000 to 2000	36.859	0,9%	50.932.790	12.1%	1.381.8
From 2000 to 5000	25.417	0,6%	76.466.666	18.2%	3.008.5
5000 and more	6.847	0,1%	56.164.841	13.5%	8.202.8
Total	**4.238.421**	**100,0%**	**420.345.382**	**100,0%**	

Source: INCRA - Situation in August 2003 in the Second National Plan for Agrarian Reform, Brasilia, 2003.

But even so, the data from 2003 continued to show the concentration of land in the country. Brazil possesses a territory of 850 million hectares. Of this total area, environmental preserves occupy 102 million hectares; indigenous lands, 128 million hectares; and the total area of properties registered in INCRA, approximately 420 million hectares. There remain another 30 million hectares of this total area that are occupied by internal territorial waters, urban areas, highways, and properties that should be regulated and another 170 million hectares of vacant land, the great majority of which is illegally fenced in, particularly by the large landowners.

These vacant lands are distributed throughout the country. The Northern region has more than 80 million hectares of vacant lands, of which 40 million are in the state of Amazonas and 31 million in Pará. The Northeast region has more than 54 million

hectares of vacant land, with more than 22 million hectares in Bahia and more than 9 million in Piauí. The Southeast, for its part, has a total of more than 16 million hectares of vacant land, and among the other states Minas Gerais has more than 14 million hectares. The South also has more than 9 million hectares of vacant land and the state of Rio Grande do Sul has more than 6 million hectares of these lands. The Central-West region, for its part, concentrates around 12 million hectares of vacant lands and the state of Mato Grosso alone has more than 9 million hectares of these.

So more than 30% of Brazilian territory is still made up of vacant lands, lands that make up part, moreover, of public lands that are not differentiated. Among the states this percentage distribution can be shown as follows:

- less than 10%: RO, RR, AP, TO, SP, PR, MS e GO;
- between 10 and 20%: AC, MA, ES, RJ, SC e DF;
- between 20 and 30%: AM, PA, SE, MG e RS;
- between 30 and 40%: PI, CE, RN, PB e PE;
- between 40 and 50%: AL.

So the state of Alagoas is the one that has the largest percentage (36%) of vacant lands. Mato Grosso do Sul and São Paulo have the smallest percentage, 4%. Even the current Federal District has 14% of its land vacant. This is the complex side of the distribution of land in the country, since no matter where you go in Brazilian territory, there is always someone saying that "the lands he fenced in are his". And moreover: there is no square meter of land in this country the size of a continent that does not have someone claiming to be the owner. The fact is that those who claim to be "owners" have fenced in more lands than what is registered in their documents.

There are also, among the 420 million hectares registered in INCRA, a total of 4.2 million properties. Among them, the land concentration indicates that the average area of the large properties is from 2,700 hectares, while in the small properties it is from 25 hectares, that is to say, more than 100 times smaller. Among these large properties, INCRA, on applying Law 8629 from 1993, which defines the productivity indexes, found 120 million hectares of unproductive lands, which is the equivalent of 70% of the total. So the majority of large properties in Brazil are unproductive and this is their fundamental character. The land is not privately appropriated to be made productive, since the land, even without producing anything, generates wealth for its owner. It functions simultaneously as a reserve of value (realized in the sale of the property) or, what is more common, as a reserve (used as assets placed as a guarantee when loans are taken from the financial system.)

Analyzing the distribution of large unproductive properties in the country, it can be verified, first of all, that there are a total of 111,495 properties in Brazil classified as

large by INCRA (more than 15 fiscal modules) that occupied 209,245,470 hectares. Among these, in August of 2003, INCRA's registry indicated the existence of 54,781 unproductive properties with an occupied area of 120,436,202 hectares. Among the significant data about unproductive land in Brazil it is worth highlighting the presence of little more than 10,000 properties (10,545) with an area greater than 50 fiscal modules, making up practically half of the unproductive lands (59.8 million hectares), which allows us to state that they are the typically unproductive latifundios in Brazil.

The distribution by state of the unproductive lands reveals also that all states have significant areas of unproductive lands. For example, the state of Mato Gross has more than 34 million hectares; Pará has 21 million; Bahia, 9 million; Goiás, Maranhão, Tocantins and Minas Gerais have more than 6 million; and Mato Grosso do Sul has more than 5 million hectares of unproductive lands.

These numbers show clearly that there is enough land in all the states to provide broad agrarian reform in the country. So it's necessary to keep insisting that agrarian reform continues to be a structural necessity for Brazilian society and a tool to correct the unequal distribution of land and its unproductive retention, not fulfilling the constitutional provision that the private ownership of land must fulfill its social function, as is required in Article 184 of the country's Federal Constitution: "The State should, in the interests of society, expropriate the rural property that is not fulfilling its social function, for the purpose of agrarian reform."

Why agrarian reform?

Many journalists and intellectuals have asked "Why agrarian reform?" The objective is to convince everyone that Agrarian Reform is unnecessary in present-day Brazil. But the subject of Agrarian Reform definitively went on the agenda of the political world in Brazil starting in the 1950s. Not because of the will of the politicians, much less because some of the intellectuals wanted it. Because many of them, including some on the left who did not want it, do not have the courage to say so. Even so, it definitively went on the political agenda of the country because the Brazilian farmers took on themselves the task of inserting themselves into the world of politics. We need to remember that the Brazilian farmers in the history of Brazil never had access to land. The movement of the Peasant Leagues placed the struggle of the landless farmers (the renters) of the Northeast on the national political agenda in a definitive way. And along with that, the struggle of all the small farmers in Brazil.

The Brazilian elite always agreed on the need to prevent the small farmers from having access to land. The military coup in 1964 was the last great pact. In it, in a contradictory fashion, was born the Land Statute in November 1964 – the Law of

Agrarian Reform – and the agreement was also born that turned the capitalists of the Central South region into the greatest latifundio owners in the history of mankind. The policy of fiscal incentives of SUDAM in Amazônia was the political tool for the greatest primitive accumulation of capital in the 20th century in Brazil.

The fundamental issue is that the history of Brazil in the second half of the 20th century is a history with two contradictory faces: one hegemonic, which tells the epic of land concentration; the other refers to the bloody struggle to get access to land that was carried out by small farmers throughout Brazil. From 1969 to 2009, more than two thousand small farmers (almost one thousand from 1986 to the present) have been killed. The number of conflicts came to more than nine thousand, distributed throughout the country. More than 37% of the land conflicts occurred in the Northeast; 21% in the North; 17% in the Central-West; 14% in the Southeast; and 11% in the South. To be ignorant of these numbers is to be ignorant of the barbarism that accompanies modern development in the countryside.

There are more than 100,000 families in encampments. More than 800,000 are enrolled in agrarian reform programs. Therefore, there are currently more than a million families waiting for agrarian reform. Studies estimate an additional 2.5 to 6.1 million families who would be interested. For this reason, the landless workers in Brazil are definitely on the political agenda. They are conscious of their constitutional rights and are going to struggle. Thus there is a landless workers' movement in Brazilian society that is greater than those that make up the other social movements. For this reason, they will not stop growing.

Agrarian reform is, at the least, a process of political action aimed at moving part of those who live in misery (families who live on less than the minimum wage) from the bottom of society and have them reach at least the condition of the poor (who live on an amount equal to two to three times the minimum wage).

It is also necessary to clarify that the statement that agrarian reform is going to "disturb powerful agribusiness, which creates foreign exchange credits for the country" makes no sense. First of all because Brazil has 120 million hectares of unproductive land registered with INCRA. This figure alone already shows that the governments have not complied with Article 184 of the Brazilian Constitution, which requires that the large properties that do not fulfill a social function must be expropriated for agrarian reform. Secondly, because this unproductive area cannot be confused with that area representing 90 million hectares that is used productively, since the total number of large properties makes up 210 million hectares of Brazilian territory.

This is why small farmers are mobilizing all around the country and in their own way are inserting themselves into the productive process of the Brazilian countryside.

Among the small farmers with land, INCRA data shows that rural properties with an area up to 100 hectares grew in number close to one million between 1992 and 2003 and in area by 25 million hectares. The small farmers with land represented in 2003 a total of more than 3.6 million. Along with them are the small farmers who pay, in product or with money, to be able to produce on the land, namely the 273,000 farmers who are partners and the 253,000 who are tenants. Joining them are those who are refusing to pay income either in product or in money, opening the way for ownership of vacant lands, whether public or private. There are 674,000 farmers who are landowners, representing a total of 1.2 million establishments. Thus among the farmers who are taking part in the production process—close to 4.5 million establishments with an area up to 100 hectares occupy 84.3 million hectares (10% of the total in the country)—Brazilian agriculture on small and medium sized farms is constructing a space for itself in Brazilian society. Brazilian farmers continue marching forward in their struggle for agrarian reform.

Agrarian reform in the Workers Party government

The agrarian reform numbers of MDA/INCRA in the Workers Party (PT) continue being ridiculous. The number officially announced of those settled up to 2008 was 519,111 families. But that's a farce. INCRA continues to claim as new settlements (Goal 1 of the PNRA II) all the families who had their List of Beneficiaries issued since 2003 by the regional superintendencies. This means that the agency continues adding all the families who had their ownership regularized, or who had their former rights in older settlements recognized, or were resettled because of the construction of dams, as if they were new settlements.

As PNRA II establishes, Goal 1 encompasses only the new settlements that came about by expropriation or by obtaining public lands to settle families who are in encampments or already registered as possible beneficiaries of agrarian reform. Goal 1 anticipated the settlement of 540,000 families by 2007. This was the goal of agrarian reform agreed upon in 2003 with the social movements, and increased to 640,000 by 2008.

Goal 2 refers to land regularization and foresees a total of 560,000 regularized ownerships by 2007. There were other goals that were part of the Plan as well, such as the recognition of the remainders of quiolombo (afro-descendant) territories, the extractive reserves, and the recognition of the right of families in former settlements who came from various situations related to acquisition and/or inheritance of plots of land. This is not exactly agrarian reform but rather land re-ordering.

However, the MDA/INCRA continues to insist on trying to confuse the social movements and the unions and society in general, stating that it settled more than the PSDB government. The truth, however, is something else. The data below show this new farce.

Up to 2008 after the expulsions and reclassifications had been carried out, we arrive at the following results:

- land resettlement: 2,061 families
- land reordering: 195,502 families
- land regularization: 138,240 families
- agrarian reform (Goal 1 of the Second PNRA): 183,308 families.

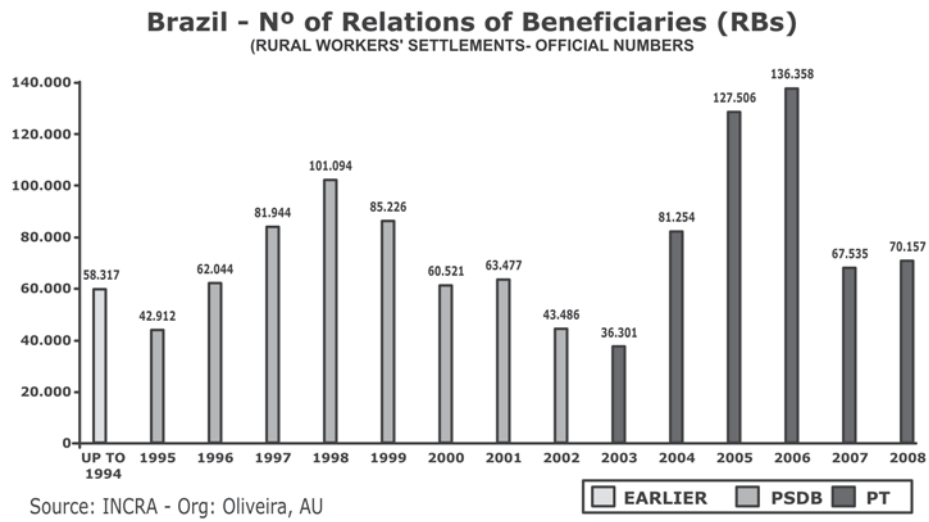
Therefore, the MDA/INCRA did not settle 519,000 before 2008 but rather only 183,000. So the Luis Inacio government implemented only 183,308 new settlements, with the difference (457,000) being regularizations, re-ordering, and land resettlements.

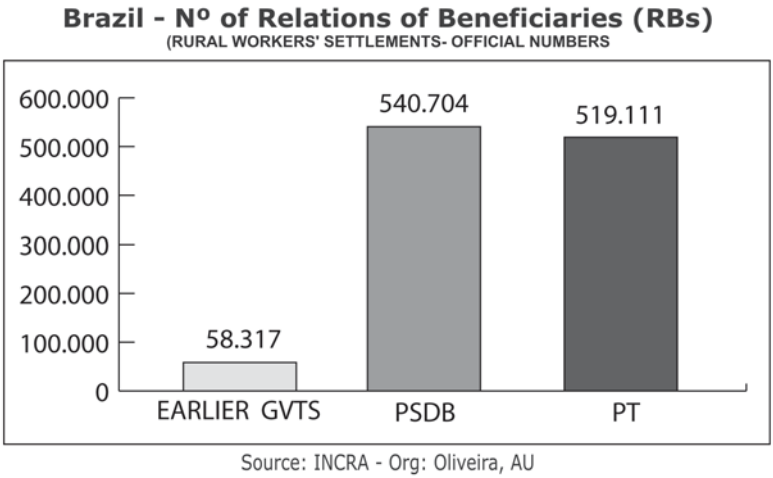
The "nude and crude" reality that the social and union movements struggling for land have to believe is that only a little more than a third of the agrarian reform promised was carried out during the first term of the PT. They also have to believe that the MDA/INCRA continues to lie and hide the truth about the agrarian reform numbers.

And what is the consequence of this political practice?

More than 100,000 families who were in encampments in 2003 were still in encampments in 2009.

In this way, agrarian reform is not carried out because the MDA/INCRA does not want to expropriate the large unproductive properties in these states in order not to "destabilize" agribusiness. Meanwhile, the government is giving "ragged excuses" to the social and union movements who already do not believe them any more. So a new type of logic arises between the PT government and the social and union movements: one pretends to carry out agrarian reform and the others pretend to believe them.

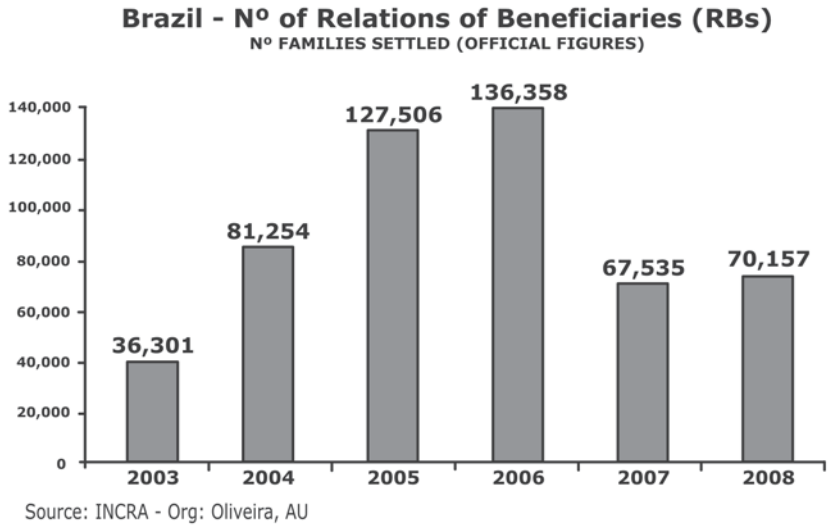


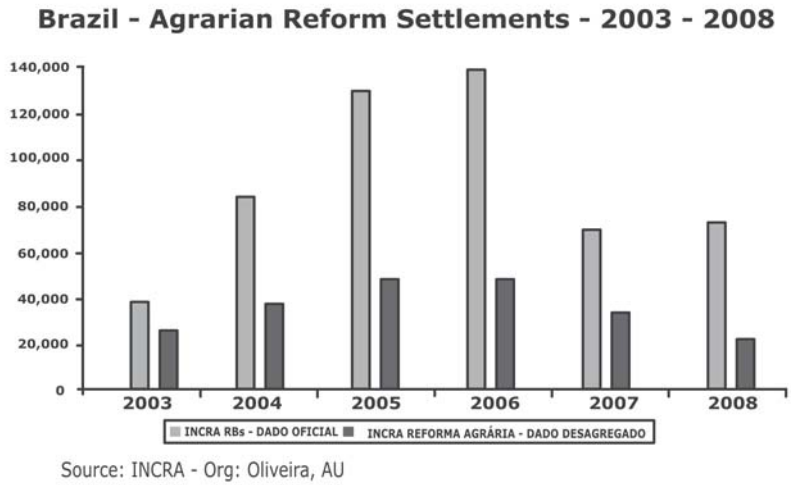


The PT government says goodbye to agrarian reform

PNRA II ended in 2007 and few remember this fact. That is to say, the PT government only carries out agrarian reform if it wishes, since it currently has no plan to do so. But MDA/INCRA continues to produce "factoids" to fool society through the media with news such as the new study about the productivity indexes; or the story that there are many properties being bought by foreigners in Brazil. Furthermore, the government agency responsible for this last issue is INCRA itself, and it is not known why they have not opposed these sales if they are irregular. As for the new productivity indexes that have never been decreed by the PT government, it's another case of "fool me 'cause I like it".

So, as has been stated, the agrarian reform policy of the government of Luis Inácio da Silva is marked by two principles: do not carry it out in the areas where agribusiness predominates and do it only in the areas where it may "help" agribusiness. That is to say, agrarian reform is definitely connected to the expansion of agribusiness in Brazil. It's as if using the old excuse: the government pretends to carry out agrarian reform, and publishes manipulated numbers in the expectation that society can also pretend to believe.





Why the silence about agrarian reform?

Why then the silence about agrarian reform? If there is anything that makes a studious person curious it is silence about a specific issue. The defense of agrarian reform, which was always the banner of progressive and revolutionary thought, appears to be up in the air. Few have protested.

The always brilliant José Juliano de Carvalho Filho, in the article "The new (old) agrarian issue", published in the 2/22/2008 issue of the newspaper Valor Economico, set the tone: "*From capital's point of view, there is no issue to resolve in the countryside that makes accumulation difficult. On the other hand, for the exploited populations*

the issue does exist. In the world created by finance capital, markedly here on the periphery subordinated to the global system, there is no place for the great majority of these people—they are considered mere leftovers from capitalist progress. For them, however, the agrarian issue is real and means survival and for this reason, they resist."

However, it appears that for the majority of intellectuals it would be better if the agrarian issue did not exist and that the struggle for agrarian reform were shut down. But as a rule, every month real Brazil has been shaken by land occupations.

In the media, the journalist Eduardo Scolese, in a cover story in the Folha de São Paulo (01/07/2008), studied the data on expropriations and arrived at the conclusion that INCRA had obtained fewer lands for agrarian reform in 2007; that is, only 204.5 thousand hectares, which would allow around 6,000 families to be settled.

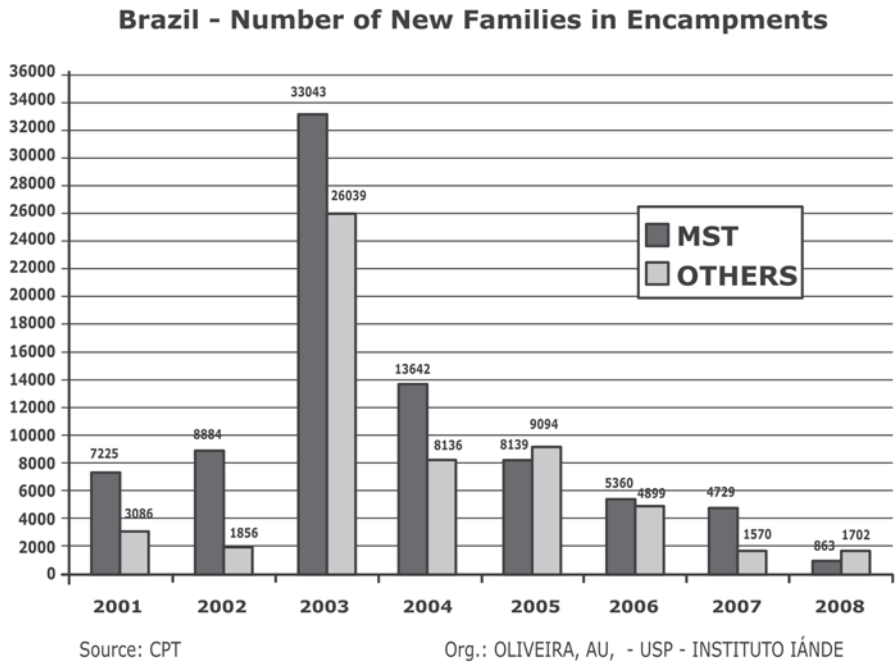
Among the leaders of the social movements on land, João Pedro Stédile is of the opinion that "*In this area, the Lula government did not advance at all. Because agrarian reform happens when the State takes measures to democratize the ownership of land. We have data that show the opposite: in the last six years, the concentration of agrarian ownership has increased. What's underway in Brazil is a counter-reform.*" (Estado de S. Paulo, 02/24/2008, p.A17)

Bishop Tomás Balduíno of the Pastoral Commission on Land, in an interview with the magazine ISTO É (nº1993, year 31 of 01/16/2008), also registered his evaluation: "*In the struggle against latifúndio, Lula made no difference whatsoever. It's true that he did not repress the social movements, as Fernando Henrique did, and he held a dialog, he did not shut the doors [...] The expropriations are short of the goals that he himself laid out. Today, agrarian reform is a topic that is off the table, not being thought about."*

The ebb of the mass movement and the flow of government financial resources channeled to the compensatory policies (stock markets of every type) appear to be quieting those who struggled bravely for agrarian reform over the last 30 years.

But it must be said that the silence of the masses of small farmers is intriguing.

Everything indicates that the two processes are trading places.


Brazil - Number of New Families in Encampments
36000
34000
32000
30000
28000
26000
24000
22000
20000
18000
16000
14000
12000
10000
8000
6000
4000
2000
0
MST
OTHERS
7225
3086
8884
1856
33043
26039
13642
8136
8139
9094
5360
4899
4729
1570
863
1702
2001
2002
2003
2004
2005
2006
2007
2008
Source: CPT
Org.: OLIVEIRA, AU, - USP - INSTITUTO IÁNDE

The Agriculture and Ranching Census for 2006, recently released by IBGE, shows the maintenance of an unacceptable inequality in the distribution of land in Brazil. Data released by IBGE show once again that a high degree of land ownership concentration persists. The census confirms the stability of the level of land ownership concentration in relation to the last two censuses (1985 and 1996). Comparing the extremes for distribution of land, while rural establishments of more than 1,000 hectares dominate 43% of the total area, small holdings of less than 10 hectares cover scarcely 2.7% of the total.

Concentration, Agrarian Policy and Violence in the Countryside: Ten Years

José Juliano de Carvalho Filho[*]

This article, written as part of the edition commemorating ten years of the Report of the Social Network for Justice and Human Rights, analyzes three aspects of the Brazilian agrarian system: concentration of landownership, agrarian policy, and violence in the countryside.

Concentration of Landownership

The Agriculture and Ranching Census for 2006, recently released by the Brazilian Institute of Geography and Statistics - IBGE (Instituto Brasileiro de Geografia e Estatística) shows the maintenance of an unacceptable inequality in the distribution of land in Brazil. Data released by IBGE show once again that a high degree of land ownership concentration persists in Brazil. The census confirms the stability of the level of land ownership concentration in relation to the last two censuses (1985 and 1996). Comparing the extremes for distribution of land, while rural establishments of more than 1,000 hectares dominate 43% of the total area, small holdings of less than 10 hectares cover scarcely 2.7% of the total.

Compared to 1996, there was a reduction in the number of establishments with less than 10 hectares, and a reduction of the area occupied by them – from 9.9 million hectares in 1996

[*] *José Juliano de Carvalho Filho is an economist, a Professor at FEA-USP (University of São Paulo), and Director of ABRA (Brazilian Agrarian Reform Association). He is a Board Member of the Network for Social Justice and Human Rights.*

to 7.7 million in 2006. With regard to units of more than 2,500 hectares, 31,899 holdings take up 98 million hectares.

The census period does not correspond exactly to the ten years of the Social Network's Report, but it is evident that concentration has persisted throughout the existence of the publication. For the last three years, nothing has been verified that indicates any reversal of this trend to favor small farmers in the countryside. To the contrary, there is an expansion of mono-cropping. As an example, the State of São Paulo shows sizeable growth in sugarcane fields, and a significant change in the Gini index – from 0.7589 (1966 census) to 0.804 in the 2006 census. The beneficiaries of this policy continue to be large landowners in conjunction with agribusiness, with the marked presence and association with large transnational corporations.

Agrarian Policy

The Social Network's Report on Human Rights always placed great importance on the rural environment. In 2003, the country welcomed a surprising electoral result with the victory of Lula. There was great hope for major socioeconomic and political changes. The hope was for a government concerned with the interests of low-income people. There was a longing for vigorous political action aimed at profoundly changing the exceedingly peculiar Brazilian social pyramid – an enormous base composed of many poor people, some middle class, and a protruding vertex, similar to a point that hovers at the heights of wealth and power.

In the rural environment, the expectation was the reversal of the trend toward concentration of land ownership, with implementation of agrarian reform and policies in support of small farmers and landless workers. However, the Lula government has not changed anything relevant with regard to the agrarian policy set up during the two terms of the Cardoso government. Ten years ago Brazil lived under the second mandate of Fernando Henrique Cardoso. In short, the policy implemented in that era – "The New Rural World" – was marked by so-called "market agrarian reform".

Only a broad agrarian reform could have the potential to alter the land structures in the countryside, and reverse the situation of injustice and exclusion. But the Lula government opted for the "agri-business model." The consequences are further land ownership concentration, loss of biodiversity, reduction of poly-culture, worsening exploitation of labor, slave labor, deaths of sugarcane workers due to exhaustion, migration, expansion of sugarcane plantations in the Amazon, air and water pollution, rural militias working for both domestic and international corporations, the reduction of agricultural jobs, denationalization of land, increase in speculative capital, greater threat to food security, and an increase of agrarian conflicts.

Over the last two years, aside from continuation of low numbers of settled families in agrarian reform communities, government policies allowed for more land grabbing in the Amazon – evidently benefiting the large *grileiros* (illegal land appropriation by large farmers).

Provisional Measure 458[1] of 2008 will entail the delivery of the greater part of 67.4 million hectares of public lands to *grileiros*, who illegally occupy public lands.

To complete the picture, towards the end of this year the government announced that it would sign the updated productivity indices used for purposes of appropriation for agrarian reform. To date,[2] it hasn't done so. Television broadcasts let out that there would be a risk of war in the countryside if the government carried out the updating of the indices. Up until now the president has given in to the interests of large landowners.

In short, the agrarian policy in the past ten years was ineffective for rural workers and peasants and useful for large landowners. Agrarian reform is not a political priority for the Lula government. The prime concern of governmental policy is agribusiness for export.

Violence in the Countryside

During the ten years of its existence, the Annual Report of the Network for Social Justice and Human Rights recorded and denounced the persistence of the grave situation of violence in the Brazilian rural environment. CPT (Land Pastoral Commission) data, since its founding in 1976, shows a permanent situation of repression against rural workers.

The CPT's comparative numbers of conflicts in the countryside, summarized below,[3] show the constant presence of violence and death.

COMPARISON OF CONFLICTS IN THE COUNTRYSIDE 1999-2008

YEAR	Number of Conflicts	Murders	Persons Involved	Hectares
1999	963	27	706,361	3,683,020
2000	660	21	556,030	1,864,002
2001	880	29	532,772	2,214,930
2002	925	43	451,277	3,066,436
2003	1690	73	1,190,578	3,831,405
2004	1801	39	975,987	5,069,399
2005	1881	38	1,021,355	11,487,072
2006	1657	39	783,801	5,051,348
2007	1538	28	759,341	8,420,083
2008	1170	28	502,390	6,568,755

[1] *Law 458 was preceded by various government initiatives that gradually increased the maximum area that could be alienated: Article 118 of Law No. 11.196/05 raised it to 500 hectares; MP 422, issued in March and approved in July of 2008, allowed INCRA to give title directly, without bidding, to properties in the Amazoni with up to 15 rural modules or 1,500 hectares; MP 458: authorizes the government to get bids for areas greater than that which is regularized (15 fiscal modules) up to 2,500 hectares, with preference given to purchase by the occupants.*

[2] *23/10/2009.*

[3] *For greater details, read the specific chapter of this Report regarding violence in the countryside.*

Another social issue that persists in Brazil is the occurrence of slave labor. In the last decade, there were cases with far-reaching ramifications: the murder of Ministry of Labor investigators in Unai/Minas Gerais (2004); the massacre of five landless workers in Felisburgo/MG (2004); the murder of Sister Dorothy Stang in Anapu/PA (2005); the assassination of Keno, a landless leader, executed by the private militia of Syngenta Corporation in Paraná (2007), and many other cases. In 2009, up to the 21st of August, there had been 17 deaths of rural workers in the countryside.

What can be concluded from this rapid journey through the last ten years is that the Brazilian State has always walked hand-in-hand with large landowners. It has always protected their interests and, at the same time, repressed workers who organize to defend their rights.

Violation of Rights and Violence Persist in the Countryside

[*]Antonio Canuto

Ten years. The Social Network for Justice and Human Rights' Report on *Human Rights in Brazil* has accompanied the ten years of the existence of that same Network. In the countryside, the agrarian structure, based on limitless ownership of the land, continues to generate violence against men and women who, with their sweat, make the earth be fruitful and generate life. In this commemoration we will turn our attention to the conflicts that have taken place over the last ten years, how the governments have behaved, and we will discover that new actors, with new approaches, have arisen in the scenario of the Brazilian countryside.

Amid the Conflicts

According to Pastoral Land Commission (CPT) data, in the first term of President Fernando Henrique Cardoso (FHC), from 1995 to1998, conflicts in the countryside doubled. They went from 550 in 1995 to 1,100 in 1998. It was in this period that the massacres occurred at Corumbiara (1995) and Eldorado de Carajás (1996). The massacres once again placed the subject of Agrarian Reform on the national agenda, and FHC then created the Ministry of Agrarian Development (MDA).

But the space given to Agrarian Reform dwindled in his second term. The budget was progressively reduced. Grassroots movements in the countryside kept up their protests and pressure. Occupation of Regional Police Headquarters and of the Ministry of Finance by the Landless Movement (MST), in 2000, lit up the red light, and the government came down with a package of repressive measures intended to contain the struggle.

[*] *Secretary of CPT's National Coordination Office.*

On June 29, 2000, the government issued Provisional Measure No. 2,027-40, Paragraph 6, of which determined that "rural property that has been subject to dispossession or invasion caused by agrarian or land ownership conflict of a collective nature shall not be inspected in the two years following vacating of the property." The measure was reissued in April 2001, under No. 2109, and in August 2001, under No. 2,183-56, with the addition of another paragraph that excluded from the Agrarian Reform Program anyone who had participated in an "invasion or dispossession of rural property or "who had participated in the invasion of a public building".

In order to nullify the actions of rural movements that occupy land to pressure for agrarian reform, the government implemented the Registration by Mail program, which became known as Agrarian Reform by Mail, and had a large media campaign with the slogan "The door is open. You only have to enter and register". FHC also created the Land Note (1997) and the Land Bank (1998) programs, inspired by the World Bank, which replaced the constitutional precept of dispossession for social interest, with an instrument for the purchase of land. The purpose of these measures was to weaken the organization of rural movements, particularly the MST, appealing to individualism. This tactic affected the settlements. Alongside families which were members of organizations that fought for the land, others were settled with whom they had nothing in common, giving rise to internal conflicts. In addition, the organization of other landless movements was encouraged, in order to weaken the MST.

At first sight, it seems that the measures were effective. In 2000, the conflicts recorded by the CPT numbered 660, well under the 983 recorded in 1999. The number of murders also fell in 2000, to 21, compared to 27 in 1999. But this impression changed in the last two years of FHC's second term, when the conflicts again grew: 880 conflicts in 2001, with 29 murders, and 925 conflicts in 2002, with 43 murders.

The election of President Lula left large landowners on guard. In accordance with CPT records, violence reached frightening heights. In 2003, the first year of President Lula's mandate, the number of conflicts jumped to 1,690, with 73 murders, a number which was only surpassed in the 1980s. The following year, 2004, the number of conflicts rose to 1,801, with 39 murders, and in 2005, the highest number of conflicts was recorded: 1,881, with 36 murders. After that the number of conflicts began to diminish: 1,657 in 2006 with 39 murders; 1,538 in 2007, with 28 murders; and 1,170 in 2008, with 28 murders. Even with the decrease in the figures for these last years, the smallest number of conflicts during the Lula government (1,170 in 2008) is greater than the largest number during the FHC government: 1,100 in 1998.

Violence affected not only rural workers, but also those who supported them such as Sister Dorothy Stang, a North American missionary who was active in the CPT.

Sister Dorothy was murdered in February 2005 for defending the Sustainable Development Projects (PDS) in Pará. Violence also reached public servants, such as the case of the Ministry of Labor inspectors murdered in Unaí, Minas Gerais, at the beginning of 2004, while verifying labor legislation compliance in the region.

The Lula government, however, kept the channels open for dialogue with grassroots movements. Lula was harshly criticized when, in 2003, he received MST members in his office, and put on an MST hat. But Lula, who in 2002 said that FHC didn't accomplish agrarian reform because he was weak and didn't have the courage to confront the ruralist caucus, ended up hostage to that same caucus. He never proposed to revoke the punitive measures created by FHC.

The Judiciary in Action

President Lula's failure to criminalize rural movements made the ruralists prioritize other strategies to block the movements' actions. In many states, the state executives placed the police at the service of large landowners. But the strategy most utilized by landowners was recourse to the judiciary. There they found, as always, the support they needed to counter the movements' actions.

In 2003, the first year of Lula administration, the judiciary was responsible for the eviction of 35,297 rural families, 263.2% more than in the preceding year, and for the imprisonment of 380 members of rural movements, 151.4% more than in 2002. In 2004, these numbers grew to 37,220 families evicted and 421 persons imprisoned.

Actions by the Judiciary

Year	2000	2001	2002	2003	2004	2005	2006	2007	2008
Conflicts	660	880	925	1690	1801	1881	1657	1538	1170
Families Evicted	16020	13455	9715	35292	37220	25618	19449	14221	9077
Workers Imprisoned	365	254	158	380	421	261	917	428	168

Source: CPT Documentation Sector

Convictions

Along with the decisions in favor of the interests of large landowners, convictions of movement leaders increased. Just in 2008 the following people were convicted, among others:

- José Batista Gonçalves Afonso, attorney, and at the time National Coordinator of CPT, defender of human rights in the region of Marabá, PA, and Raimundo Nonato Santos da Silva, previously regional coordinator of Fetragri of Pará, in legal proceedings relative to the occupation of the Incra Headquarters in Marabá, in April 1999.

- Three leaders of MST and the Mining Workers Movement (MTM), Eurival Martins Carvalho, Raimundo Benigno, and Luiz Salomé, fined R$5,200,000, for occupation of the Carajás Railway, explicitly for being the leaders.

- In Alagoas, the ex-coordinators of the Land, Labor, and Liberty Movement (MTL), the siblings Valdemir Augustinho de Souza and Ivandeje Maria de Souza, for the crimes of forming a gang, damage to property, qualified theft and extortion, in occupation of the headquarters of the Conceicão do Peixe Mill.

- Néri Fabris, of the Landless Workers' Movement (MST), in Santa Catarina, for leading the occupation of the roadside of BR-470, in the municipality of Gaspar.

Blocking Dispossessions

Another area where the ruralists found support from the judiciary was with regard to dispossession of land for Agrarian Reform. The majority of the decrees for dispossession of land were blocked in the Federal Supreme Court. And there the process was prolonged, increasing the despondency and skepticism of the encamped families. In 2003, for example, the Supreme Court annulled the dispossession of one of the largest estates of Rio Grande do Sul, the Southall Ranch in São Gabriel, the scene of many conflicts and much violence. The temporary injunction against dispossession came from one who in a way had an interest in the case, Minister Elen Grace Northfleeth. The Minister was a relative of the owner's wife.

Public Prosecutors' Office

Another institution that acted to restrain the action of social movements was the Public Prosecutors' Office. In Rio Grande do Sul, this led to the most violent attacks against the MST.

At the end of 2007, the Upper Council of the State's Public Prosecutors' Office approved, unanimously, *"designating a team of Promoters of Justice to promote public civil action for the purpose of dissolving the MST and declaring its illegality(…)"* and *"intervention in the MST's schools."* These deliberations opened the doors for well orchestrated actions by the Judiciary and the state government against the movement. At the beginning of 2009, the MST's Itinerant Schools were closed. At the Oziel Alves camp in the municipality of Sarandi, 130 children were left with no school.

As attorney Jacques Alfonsin highlights upon analyzing the actions of the Public Prosecutors' Office and the Judiciary:

"This is a legal culture that interprets the facts and the laws, that pre-judges, by a cowardly and prejudiced syndrome, all active poor people – as the landless who defend their rights – closed within a seclusion of anticipatory suspicion that they are, due to their very social condition, dangerous and likely

to commit crimes. The media, with rare exceptions, has taken charge of feeding this prejudice, to the point of invading the heads and hearts of public administrators, judges, and opinion-shapers, as executors of this other code."[1]

The Legislature Attacks

The Rural Caucus, which encompasses legislators from almost all parties, has the power to block executive projects. They attack rural movements, especially from Via Campesina, but exalt "the value and sacrifice of rural producers" (or large landowners), and demand the forgiveness of their debts with public banks. The Chamber never got to a second round of voting on PEC 438, already approved by the Senate and first in line for the Executive Branch, which establishes confiscation of areas where there was flagrant slave labor, allocating them for agrarian reform.

In 2009, in an action orchestrated by the media and the ruralist caucus, a cover page of the conservative magazine VEJA denounced corruption by the MST, and served as the pretext for a Congressional Investigation (CPI) against the movement.

New focus, new actors

Over the last ten years, new social actors have been appearing to a greater degree, and new forms of struggle are being implemented. These new actors, however, encounter the same obstacles, face the same violence that affects other workers. A new focus of the workers' struggle is against the various forms of aggression against nature, represented by the monocropping of soy, sugar cane, eucalyptus, etc. These movements fight against genetic manipulation which, under the pretext of improving production, aims to control the production of seeds and of the entire food chain, and is concentrated in the hands of large economic groups.

The rural women's movement, for instance, has denounced the expansion of eucalyptus monocropping. They have suffered police repression, and hysterical attacks by legislators aligned with agribusiness and transnational corporations, with the support of mainstream media. The fury of the attacks made it clear that the actions struck to the heart of agribusiness.

Another important protest was a hunger strike by Bishop Dom Luiz Cappio, who twice (2005 and 2007) fasted as a way to call attention to the destruction caused by a project to divert the waters of the São Francisco River.

Traditional communities, such as indigenous peoples and quilombo (rural Afro-Brazilian) communities, are in the center of the struggle to defend natural resources. As

[1] *ALFONSIN, Jacques Távora –Do respeito à lei, às leis do respeito (With respect for the law, the laws of respect) – in Conflitos no Campo Brasil (Conflicts in the Countryside Brazil) – pg 19 to 24 – CPT, Goiânia 2009*

professor Alfredo Wagner points out: *"The agrarian nature of the conflicts is deeply marked by socio-environmental and ethnic factors. The meaning of the land comes to incorporate more and more the notion of territory and the corresponding identifying factors, delineating new perspectives for mobilizing the struggle."*[2]

The professor identified, in 2006, that 145 of the 761 occurrences of conflict in the countryside involved traditional communities, about 20%. In 2006, after reelection, Lula criticized traditional communities and environmentalists, and thus gave his support to those who attack these communities and their territories.

Professor Carlos Walter, analyzing the 2007 data, pointed out that 41% of the conflicts involved traditional communities. In 2008, this number reached 53%. According to his analysis: *"traditional populations are increasingly taking a greater leadership role, which indicates to us the current state of the serious expropriation process that has been underway since the 1970s."*[3]

Violence continues

What can be concluded from this rapid journey through these last years is that, for the Brazilian elite, "social movements cause disorder, confusion, and represent a risk to public order." The Brazilian State has always walked hand-in-hand with large landowners. It has always protected their interests and, at the same time, repressed workers who organize to defend their rights.[4]

Professor Carlos Walter Porto Gonçalves notes that the level of violence in the first year of the Lula government (73 murders of workers) "is comparable to the period of the late 1980s when the Ruralist Democratic Union (UDR) reached its zenith." In both cases, the oligarchies went on the offensive, using violence. They were afraid Lula would enact Agrarian Reform. "The years when Brazilian society dared to be more democratic, were years of greater violence in the countryside. That is, those who provoke violence in Brazil are not the peasants or the workers; the violence is always led by the oligarchies. Today, in the middle of 2009, we are experiencing the same horror as 500 years ago."[5]

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[2] *ALMEIDA, Alfredo Wagner Berno – Terra e Territórios (Land and Territories) in Conflitos no Campo Brasil (Conflicts in the Countryside Brazil) 2006, pg. 16 to 25 – CPT – Goiânia 2007*

[3] *GONÇALVES, Carlos Walter Porto – Acumulação e Expropriação (Accumulation and Expropriation) in Conflitos no Campo Brazil (Conflicts in the Countryside Brazil) 2008, pg 101-108 – CPT, Goiânia 2009*

[4] *CANUTO, Antônio – A Celeuma dos Bonés (The Furor over the Hats) in Conflitos no Campo Brasil (Conflicts in the Countryside Brazil) 2005, pg. 108-111 – CPT – Goiânia 2004*[5] *GONÇALVES, Carlos Walter Porto – Reforma Agrária e Democracia, our melhor, Reforma Agrária é Democracia (Agrarian Reform and Democracy, or better said, Agrarian Reform Is Democracy) – http://alainet.org/active/33521 - accessed 18 October 2009*

[1] *GONÇALVES, Carlos Walter Porto – Reforma Agrária e Democracia, our melhor, Reforma Agrária é Democracia (Agrarian Reform and Democracy, or better said, Agrarian Reform Is Democracy) – http://alainet.org/active/33521 - accessed 18 October 2009*

In contrast with the propaganda of the agro-industrial complex as a symbol of "development" and "efficiency," the land ownership and agricultural model of this sector creates serious social and economic inequalities, besides being highly dependent on public resources. Some of chief consequences of this policy are environmental degradation, concentration of income, and unemployment in rural areas.

Monocropping of Sugarcane and Counter-Agrarian Reform[1]

Maria Luisa Mendonça[2]

The debate on the production of agro-energy involves a wide range of themes, centered on the agricultural and economic model adopted by peripheral countries and in a process of "recycling" in the discourse that defines the geopolitics of central countries. In this context, the Brazilian government assumes a protagonist role in defense of the expansion of monocropping for the production of agroenergy. Currently, the priority of Brazilian foreign policy is to guarantee access to markets for agrofuels, principally in the European Union, Japan, and the United States, in addition to encouraging other countries in the Southern Hemisphere to adopt this production model, by means of technology transfer agreements.

Opting for an agricultural model that prioritizes monocropping for export is based on the idea that implementation of full agrarian reform would not be significant for rural development in Brazil. As Manuel Correia de Andrade observed, the processes of rural exodus are based on the image of urban centers as the chief generators of income

[1] *This article was translated into English by Sheila Rutz, with the support of Global Exchange.*

[2] *Maria Luisa Mendonça is a journalist and director of the Network for Social Justice and Human Rights, and is currently pursuing a PHD in Geography at the University of São Paulo (USP).*

and economic opportunities.[3] However, the major regions in which natural resources are concentrated—such as water, land, minerals, and biodiversity—are in the rural environment and have come to be the center of the principal political and economic disputes, both nationally and worldwide. Multilateral financial agencies, large national and transnational firms, and governments dispute geopolitical control of regions rich in strategic resources, both agricultural and mineral energy-related.

To justify this option, it would be necessary to "extinguish" the idea of the importance of supporting agrarian reform and family farms, as policies central to rural development.[4] During the Fernando Henrique Cardoso administration, agrarian reform policy was replaced by a project called "The New Rural World," basically centered on three principals: (1) settling of landless families under a compensatory social policy; (2) "decentralizing" agrarian reform projects, passing responsibilities inherent to the federal government to states and municipalities; (3) replacement of the constitutional instrument on expropriation by a "land market" policy, which signifies negotiated purchase and sale of land. This concept of "development" was encouraged by the World Bank, through the creation of three programs: the Land Title, the Land Fund, and the Land-Based Poverty Alleviation Project. In spite of this ideology being based on the propaganda of minimum State, the World Bank demands a share of public funds in its projects, which compromises the State's budget and defines a land ownership policy based on privatization of land. In accordance with this policy, small farmers must seek "efficiency" by means of integration with the agro-industrial complex (MARTINS, 2004).

Currently, the Brazilian agro-industrial complex is joining the ranks of "globalized" capitalism, characterized by large agricultural and industrial monopolies, under a strong influence from financial capital (OLIVEIRA, 1998), as well as the rules of international financial institutions, such as the World Trade Organization (WTO). Since its creation in 1995, the principal role of the WTO has been to expand its regulatory power in 147 countries, which means exercising a great influence in the daily lives of millions of people. In spite of spreading the ideology of "free trade," the WTO has a complex structure of rules used in defense of the interests of multinational corporations and their headquarter countries. The scope of the agreements contained in the WTO greatly exceeds the subject matter of international trade. In Brazil, agricultural policies follow

[3] In his book A Terra e o Homem no Nordeste, Manuel Correia de Andrade refers to the expression "cidade inchada" (swollen city) coined by Gilberto Freyre to describe this process, and to point out that "considerable increase in population, without a corresponding increase in employment possibilities, is more of a swelling than it is a growth." He explains: "We believe that one of the causes which most contributes to aggravating this problem is the dominant land ownership structure which has been in place since colonization" (ANDRADE, 2005, P. 62).

[4] Manuel Correia de Andrade identified the relationship between the concentration of land ownership in Brazil and State support for the development of large-scale agriculture: "Its authority is manifested through the protection granted by government entities to large-scale farming – sugarcane, coffee, cacao, etc – and the complete disregard of subsistence holdings." (ANDRADE, 2005, P. 64).

this logic, with a view principally to expanding access to markets and consolidating commercial advantages for the agricultural sector based on monocropping for export. In accordance with this ideology, the big "villain" is public subsidy for food production, but there is no questioning of the problems caused by agricultural monopolies, and by a production model looking toward the external market.

In contrast with the propaganda of the agro-industrial complex as a symbol of "development" and "efficiency," the land ownership and agricultural model of this sector creates serious social and economic inequalities, besides being highly dependent on public resources. Some of chief consequences of this policy are environmental degradation, concentration of income, and unemployment in rural areas. This process was identified by Alberto Passos Guimarães as the "conservative modernization of Brazilian agriculture will be counter-productive, and even harmful, insofar as it is only limited to improving mechanical equipment and tools, as usually happens, while keeping the anachronistic property ownership structure unchanged" (GUIMARÃES, 1978, p. 22).

A large range of studies have demonstrated that concentration of land ownership is the root cause of social and economic inequality in Brazil. In his book *A Questão Agrária,* Caio Prado Jr. brings this debate to the fore. On analyzing the mechanisms for exploitation of rural workers and the "privileged position" of large landowners, the author affirms that "The chief of these factors, and without doubt the most important and decisive, is the concentration of land ownership, which creates a virtual monopoly on the land in favor of a relatively small number of large owners. We have already called attention to this fact, which takes away from the large mass of the rural work force any alternative other than working for large exploitative enterprises" (PRADO Jr., 2007, p. 58).

The importance of agrarian reform was stressed in the work of José Gomes da Silva. According to the author, "the objectives to be sought through a change in the structure of possession and use of land in Brazil" would encompass a wide range of measures such as creating "low cost employment," "better educational conditions," assuring "the right to citizenship," "reducing rural exodus," "containing ecological devastation," among others (STÉDILE, Org., 1994, p. 184. This would be the basis for realization of so-called integral agrarian reform, understood to be central to a new development model.

Food Sovereignty

More recently, the concept of food sovereignty was incorporated in the platform of grassroots movements, according to which "Organizations which compose the National Forum on Agrarian Reform—believing in the urgency of the democratization

of access to land and water—defend the implementation of a broad agrarian reform and strengthening family farming, as a way to guarantee the right to work to the historically excluded rural population, as well as food production for the domestic market, building a road to food sovereignty in our country" (STEDILE, Org., 2005, p. 233).

This definition combines agrarian reform with food sovereignty—a term created to expand the concept of food security. The main difference between these two concepts is that food sovereignty presupposes that each nation is capable of producing food for its entire population, without depending on the external market, which, in practice, is reflected in demands for policies that favor peasant agriculture.

This principle is also based on international standards on the Right to Food, contained in Article 11 of the International Covenant on Economic, Social, and Cultural Rights. According to this standard, hunger must be eliminated and people must have permanent access to adequate food, qualitatively and quantitatively, guaranteeing the physical and mental health of individuals and communities, in addition to a meaningful life. The International Covenant on Economic, Social, and Cultural Rights[5] establishes that States have an obligation to "respect, protect, and guarantee" the right to food.

Respecting this right means that States cannot obstruct or make it difficult for the population to access adequate food, such as in the case of evictions of rural workers from their lands, especially those that depend on agriculture as a means of subsistence. The Covenant further prohibits that States utilize toxic substances in the production of food. In addition, the document establishes the principles of non-regression and non-discrimination in relation to approval of laws that guarantee access to food. This mans that governments must not approve laws that make social organization in support of this right difficult. On the contrary, governments must facilitate the organization of society for access to land, work, and protection of the environment.

States must guarantee the universal right to food by means of concrete actions and measures that protect vulnerable social groups and provide the means necessary for them to be able to feed themselves. In Brazil, in spite of all its agricultural potential, millions of people do not have access to the basic right to food. According to the Brazilian Institute of Geography and Statistic (IBGE), 14 million people go hungry and more than 72 million live in a state of food insecurity (meaning that they may have access to food today, but they don't know if they will have it tomorrow).

A History of Violations

Monocropping of sugarcane began in Brazil during the period of Portuguese colonization. Historically, this sector has been based on exploitation of large areas of land, natural

[5] *The text of the International Covenant on Economic, Social, and Cultural Rights is available at the United Nations (UN) website: http://www.unhchr.ch/html/menu3/b/a_cescr.htm.*

resources and slave labor. The activity grew even greater with the international financial crisis of the 1970s, which caused a sharp rise in the price of oil, and pushed forward the ethanol sector, starting with the creation of a governmental program called Proálcool. From 1972 to 1995, the Brazilian government provided support for increasing the area of sugarcane plantations, and structuring the sugar-alcohol (ethanol) complex, with large subsidies and different forms of incentives. The Sugar and Alcohol Institute, for example, was responsible for all commercialization and export of the product, subsidizing undertakings, providing incentives for industrial and land centralization based on the argument of "modernization" of the sector, supplying fertile land, means of transport, energy, and infrastructure.

"The sugarcane complex is presented as a totally integrated production due to its historic expansion and constitution, under the aegis of the State. Land ownership had a central role in this process and linked to that were the official policies on access to credit and the benefits of State subsidies. Its business is not sugar or ethanol, but rather the appropriation of resources by means of programs, incentives, and opportunities offered by the government," explains Attorney Bruno Ribeiro, of the Pastoral Land Commission.

Currently, one of the principal pillars of the Lula government's economic policy continues to be the agricultural model based on monocropping for export. The government continues to promote the sugar-ethanol sector by opening new lines of credit, principally from BNDES (National Economic and Social Development Bank). Recently, there was an increase in the participation of foreign corporations in this sector, which benefit from public resources.

Some of the main consequences of this policy are the degradation of the environment, concentration of income, and rural unemployment. The most recent Agrarian Census by the Brazilian Geography and Statistics Institute (IBGE), from 2006, reveals that properties of less than 10 hectares occupy less than 2.7% of the rural area, while properties larger than 1,000 hectares represent 43% of the total.

According to a study by Professor Ariovaldo Umbelino Oliveira, of the University of São Paulo, (OLIVEIRA, 2007 pp. 7028)[6], of the total jobs created in the Brazilian countryside, 87.3% are in the small production units, 10.2% in mid-sized units, and only 2.5% on the large ones. This study demonstrates that the small and mid-size rural properties are responsible for the greater portion of food production for local markets. In spite of being aware of these data, the Brazilian government has prioritized an agricultural policy that favors subsidized lines of credit and rollover debt that favor large corporations and landholdings. The Brazilian agro-industrial complex also uses

[6] *Conference offered on 29/05/2006 at the State University of of Paraná. Text available at: e-revista.unioeste.br/index.php/pgeografica/article/download/1284/1038.*

other types of "privileges," by means of "grilagem" (illegal land grabbing), slave labor, and violation of environmental and labor laws.

Violation of Labor Laws

The expansion and increasing mechanization of the sugarcane sector has not created better conditions to the labor force. The industry practices illegal means of recruiting and contracting, and does not provide adequate housing and food to workers. Mechanized cutting became the standard for measuring the amount of sugarcane cut by workers, which increased from 5-6 tons per day for each worker in the 1980s, to 9-10 tons per day in the 1990s. Today the mills demand 12-15 tons per day, principally in regions where the mechanized rates are the standard for productivity.

Failure to meet this goal frequently means that the worker will be fired and placed on a list that will circulate among the various mills, which prevents him/her from being hired for the next harvest. The majority of the workers have no way to control the weighing of their daily production. Many claims point up manipulation and fraud of such data by the mills, which pay less than what the workers have a right to. "We never know how much we are going to earn, and payment comes with lots of deductions. The mill robs us in the weighing process or with regard to the quality of the cane cut. For example, for cane that is worth $5 reais ($2.5 dollars) per ton, they only pay $3 reais ($1.5 dollars). That's how the mill deceives the workers," denounced D.S., a cane cutter in Engenheiro Coelho, São Paulo.[7]

The repetitive movements required in cane cutting cause tendinitis and spinal problems, dislocation of joints and cramps, caused by excessive loss of potassium. Injuries and wounds caused by machete cuts are frequent. However, the companies rarely recognize these cases as job related accidents. Many ill or injured workers, in spite of being prevented from working, do not manage to get disability retirement "I already broke my arm twice. When someone is ill while working, they don't get any medical attention. The other day a colleague injured his eye and the nurse at the mill didn't want to help him. They want our work, but we have no medical aid when someone is injured," says J.S., a worker at the Ester Mill in São Paulo.

Cramps also occur frequently, followed by dizziness, headaches, and vomiting. As a means of preventing the workers from dying of exhaustion, the mills began to distribute stimulants with mineral salts, after dozens of cases of death in the cane fields were divulged.

"One of the workers who cut the most cane at the Ester Mill was Luquinha, known as 'the golden trimmer'. After a short time, he became ill, with pains throughout

[7] *These interviews were held in September 2009. Some names of workers were replaced by their initials to avoid retaliation by the mills. The author thanks the Cosmópolis Rural Workers Union and the Pastoral Land Commission for their support during field research.*

his body, and couldn't eat or walk. He died at 34 years of age. The system of payment for production is what causes the death of workers," explains Carlita da Costa, president of the Cosmópolis Rural Workers Union, in São Paulo. "It is common to hear coughs and screams in the cane fields. We have to inhale pesticides and the ash from cane burning throughout the day. Once I fell on a pile of cane and felt the taste of blood in my mouth. I saw that cane cutting was killing me," says Carlita.

In São Paulo state (the largest producer of sugarcane in Brazil), the majority of the cane cutting workers is made up of migrants from the Northeastern states. Unemployment caused by the agricultural model based on monocropping and large land holdings increases the contingent of workers forced to migrate, so they are more vulnerable to work under degrading conditions. Migrant workers are recruited by *gatos* or *turmeiros* (coyotes) who transport them and act as contracting intermediaries with the mills. In the area of sugarcane fields, so-called "dormitory cities" are increasing, where workers live in overloaded huts, with no ventilation or adequate hygienic conditions. "Here we live piled up, we have to sleep on the floor. The cost of rent and energy is very high, and practically nothing is left of our salaries," says O.M., a worker at the Ester Mill in Engenheiro Coelho (São Paulo).

Continuing our fieldwork in rural São Paulo, it is evident that the cane fields are rapidly expanding, with all the social and environmental problems that we have verified over these last years.[8] In the region between Pontal do Paranapanema and Andradina, where a large number of family farms still hold on in the land, together with some preservation areas of Cerrado, a strange sign causes concern. A giant anteater lies dead at the side of the road.

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[8] *The Network for Social Justice and Human Rights and the Pastoral Land Commission have published several texts on this subject, such as the report Impactos da produção de cana no Cerrado e Amazônia (Impacts of Cane Production in Cerrado and the Amazon), available at www.social.org.br and www.cptpe.org.br*

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With the election of President Lula and the consolidation of an economic model based on intensive exploitation of natural resources for the creation of primary goods for export, the programs to interconnect the infrastructure in the country and the continent became a priority. The main supporters of large infrastructure projects are international financial institutions (the Interamerican Development Bank and the World Bank), as well as the Brazilian Development Bank (BNDES).

The Development Model in the Amazon and Its Impacts on Human Rights

Luis Fernando Novoa Garzon[1]

Amazonia cannot be explained and understood without the timeless contribution of the traditional populations that live there. Amazonia is above all a social and anthropological construction. It is the continuity and expression of indigenous peoples, with very sophisticated cultural practices. Its diversity, more than a biological accident, is the result of a civilizing process that has been suppressed and disfigured throughout centuries. It's not just a question of soil, forest, water, and genetic diversity, but rather an integrated vision of the people who arose and constituted themselves in Amazonia, exchanging usages, practices, legends, rites, and epics among themselves.

The extraction of forest products, forestry, and itinerant agriculture, the culture and the look of the indigenous peoples are not "external" activities in the environment of Amazonia, but rather conform to it. Later, in contact with this rich tradition, quilombolas (afro-descendant communities), rubber tappers, people who live on riverbanks, and farmers who extracted products from the forest all integrated themselves into Amazonia. It's not at random that only 24% of the lands of Amazonia are classified as private. The remainder are indigenous lands, conservation units, reserves set aside to extract forest products, and public lands. What predominates in Amazonia, however, is the collective use and control of the land and of the natural resources. It is this horizontal

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and cooperative Amazonia that needs to be strengthened with public policies that invigorate these non-mercantile economies with preferential credit, technological aggregation, and social infrastructure.

To the contrary, economic agents and the state arenas set up by them do nothing more than brutally incorporate Amazonia into the logic of monopoly markets, using it as a new supply of agricultural, mineral, and energy commodities.

It is toward the region of Amazonia that the country's economic, agricultural, energy, and technological "frontiers" are directed. With around 59% of the national territory, Amazonia is not simply a space to expand into. In a context of the interconnection of markets on a global scale, the "natural resources" of Amazonia can be seen as stock of commodities to be regulated by transnational conglomerates. The "governance" that they want is that which provides the ability for the meticulous administration of the expansion of borders and of businesses acting like oligopolies.

Amazonia is at the center of the national agenda, because the Brazilian government promotes the process of privatization of this precious and unique territory. In the 1970s and '80s, the military regime sought to incorporate Amazonia into the productive structure of the Center-South region, and by derivation, into the world-wide productive circuits by means of road building projects and incentives for the big mineral and cattle-raising projects. The suitable motto would be "integrate in order to better hand over". Starting in the 1990s, the neoliberal wave began with the Collor and Cardoso governments, which promoted the "autonomy of the market".

With the intention of attracting foreign investments, the multiyear plans of 1996-1999 (Brazil in Action) and of 2000-2003 (Forward Brazil) sought to optimize the channels and links of the Amazon region with international markets. Such projects, however, were of course presented otherwise, as National Axes of Integration and Development (ENIDs).

This policy caused an increase in income inequality and migration. It favored the political oligarchization and the spread of organized crime. Despite the pretense of territorializing and "integrating", up to 2003 the central logic of the diverse enclaves already in place or expanding in the region prevailed in practice: mining, lumber, cattle-raising and soy plantations. The focus and priority of such policies were subordinated to multilateral financial institutions.

With the election of President Lula and the consolidation of an economic model based on intensive exploitation of natural resources for the creation of primary goods for export, the programs to interconnect the infrastructure in the country and the continent became a priority. The main supporters of large infrastructure

projects are international financial institutions (the Interamerican Development Bank and the World Bank), as well as the Brazilian Development Bank (BNDES).

These banks promote market liberalization and public-private business alliances, with state companies oriented to supplement the requirements of the international market. In this regard, the priority is to attract investments on the basis of more sacrifices inflicted on the workers and the environment. In this scenario, new "adjustments" in the regulatory milestones of the energy, sanitation, transportation, and communications sectors are required.

The approach to development in the Amazon region becomes "regional integration", since the flow of goods that "needs" to cross Amazonia or comes from it, must have a bi-oceanic flow toward the Pacific Ocean, where the greater part of the country's commodities are directed.

The global financial crisis that broke out at the end of 2008 was an unavoidable historic test. Instead of using this opportunity to revise its policies, the Brazilian government wants to open new "frontiers" for exploitation of natural resources. The Program to Accelerate Development (PAC) in Brazil, and the Initiative for the Integration of the Regional Infrastructure of South America (IIRSA) concentrate on broadening and linking large infrastructure projects on a continental scale, to benefit international markets.

To sum up, PAC and IIRSA act as a sort of (re)territorializing pincers. At one end, we have inter-oceanic axis projects to dissolve the so-called "physical bottlenecks", with dozens of mega-corridors for export, crossed by hundreds of infrastructure projects. On the other end, there is convergence of regulatory initiatives to unblock the "institutional bottlenecks", such as new privatizing and more flexible reforms to open up the natural resources, energy, transportation, and communication sectors. In the center, local people are swept away, and then restored later as new wage earners or sub-wage earners in precarious local markets. And massacres arise as a response to the pincers that are programmed to not stop.

Everything that Amazonia is and can be is converted into support for this economic model that is specialized in processing and degrading natural resources and peoples. The region is promoted as a new market frontier of conventional raw materials (minerals, soy, beef, lumber, etc.) and new materials (biogenetic). This process can be compared to a form of (re)colonization.

In Amazonia, the first reckoning of accounts is with indigenous peoples. Their territories have been drained by criminal invasion and exploitation. Now, this occupation is done by large economic groups. There is a total disregard, for

example, to the Convention 169 of the International Labor Organization, which establishes the rights of Indigenous Peoples, as well as other national and international laws.

The second reckoning is with environmental legislation. In the words of Dirk Beeuwsaert, director of the International Energy division of Suez, which has great plans for the hydroelectric basins of Amazonia, "*as in all our other projects, we have very strict rules about profitability"*. More than proscriptions, the sectors that process natural resources, notably the electric sector, make demands on the State: a guarantee of a maximum level of profitability, with financial and legal security.

State companies in the Brazilian electrical sector, before privatization, had more than 200,000 workers. With privatization, more than half were fired and today there are less than 100,000. Of the workers who were fired, many are unemployed and others were incorporated into third-party companies, in which exploitation increased enormously. With regard to rates, in ten years of privatization, the increases have exceeded 400%, thus raising energy prices to international rate standards (thermal energy or petroleum based standard). Discourse on scarcity has been the main ideological argument to justify increased rates, and also to guarantee public financing through BNDES (The National Development Bank).

The Electric Energy Model in Brazil

MAB – Movement of Dam Affected People

1. Introduction

The energy issue has been much discussed, both in terms of concern over the possible future of the principal source currently used, which is petroleum, and from the point of view of the environmental problems that this intensive mode (using petroleum derivatives) is creating on our planet, such as climate changes. In particular, at this time of great world crisis, the energy issue has again come front and center as being a vital source for development of new technologies that will allow achievement of new standards for production.

We see a rush by large companies and capital in general to invest so as to gain privilege for their interests in relation to the various sources of world energy. In this regard, it is important that we understand that it is the wealthiest countries of the world that consume the most – about 70%—but the principal sources of energy are not

located in these countries. Brazil is one of the countries that has, due to its natural resources (water, petroleum, land, and solar), great potential for production of energy.

With the process of privatization, beginning in the 1990s, the Brazilian electric system became a big business, generating profits of about R$ 100 billion per year. Energy sources are now controlled by large transnational companies. Private ownership of electric power has had negative consequences for the Brazilian people, because it imposes high tariffs and labor exploitation. In a recent study, Professor José Paulo Vieira affirmed that, after privatization, Brazilians began to pay R$ 15 billion more each year to the energy companies.

The Brazilian energy matrix is mostly made up of water power, about 85% of current production. This is owing to the nature of Brazil, where there are rivers that allow this type of undertaking, with huge social and environmental impacts. Electric power based on water is the lowest cost alternative, and the one favored by the National Interconnected System. Today, it is estimated that water based energy costs 50% less than the chief source of energy in the world, which is petroleum. Therefore, this source is extraordinarily lucrative.

The Brazilian people pay rates based on the international market, which is based on the price of petroleum, and the energy is used as raw material for the transformation of other products such as mineral derivatives, cellulose, etc. Thus, these products are sold on the international market at a very low cost. Hydro energy is mainly destined to supply large energy consumers, principally the electro-intensive industries (cellulose, aluminum, iron, etc.), as well as mega shopping malls. Currently there are 665 large energy consumers that alone consume approximately 30% of all Brazilian electric energy, and which, in addition, get their energy at the actual cost price.

State companies in the Brazilian electrical sector, before privatization, had more than 200,000 workers. With privatization, more than half were fired and today there are less than 100,000. Of the workers who were fired, many are unemployed, and others were incorporated into third-party companies, in which exploitation increased enormously. With regard to rates, in ten years of privatization, the increases have exceeded 400%, thus raising energy prices to international rate standards (thermal energy or petroleum based standard). Discourse on scarcity has been the main ideological argument to justify increased rates, and also to guarantee public financing through BNDES (The National Development Bank).

The world energy crisis scenario chiefly affects the centers of capitalism (the United States, Europe and Japan) because those countries consume 70% of all world's energy, in spite of having only 21% of its population. A consequence of this scenario is the increase in construction of large electric energy facilities in our country, especially

hydroelectric ones, and the advance of multinational corporations across the land to produce agro-energy and cellulose.

The central problem is the current energy model, which seeks to guarantee the highest rates of profit. The construction of hydroelectric power plants has become one of the most lucrative businesses of this system. We present below two examples of social impacts caused by large companies in the dam sector.

2. Odebrecht: the case of Santo Antonio Hydroelectric Power Plant

The chief objective of large corporations, both Brazilian and foreign, is to increase their capital. To this end, they need to constantly increase their profits by exploiting workers and nature. Electric energy production has been controlled by large construction firms, big banks, and mining companies.

Large Brazilian companies, who use the fact of being domestic firms to legitimate their actions before society, have advanced into other countries and largely exploited the population and nature. One of these cases is that of Odebrecht, which does business in 35 countries and has created serious conflicts, such as in Ecuador, where it was expelled from, after the dam turbines it had built wore out.

Odebrecht is considered to be the tenth largest private Brazilian company. Its growth was always connected with government's support and partnership. It is also connected with other large corporations such as Vale and Suez. It grew exponentially during the 1970s, under the military dictatorship, and also benefited from privatization, during the Cardoso government.

One recent Odebrecht activity in Brazil is the construction of the Santo Antonio Hydroelectric Power Plant on the Madeira River, in the state of Rondonia. Odebrecht is the lead in a joint venture, together with Furnas, forming MESA (Madeira Energia S.A.). The Santo Antonio Dam will generate 3,168 MWh., and will cost R$ 8 billion *reais*. Estimated profits over the first thirty years of concession will be R$ 50 billion *reais*, or about R$ 200,000 per hour.

This is a Public-Private Partnership (PPP) between Odebrecht and Furnas. This partnership model increased during this last period, principally with PAC (Growth Acceleration Program) of the Lula government. The participation of public companies in such projects guarantee that private companies invest as little as possible. In this case, BNDES will be financing R$ 6.1 billion of the R$ 8 billion necessary for construction. This represents the largest amount of funds in BNDES history destined for a single project.

Odebrecht contracted a third-party company for the field work, i.e., the first contacts and negotiations with river dwellers in MESA's name. When that name became mud due to conflicts with the families, because of denouncements by the Movement of

Dam Affected Peoples, they changed the name of the Joint Venture to SAESA (Santo Antonio Energia S.A.) as a way of hiding their true names and legitimizing the joint ventures. More recently, the company has used cooption and repression tactics with the affected people. At community meetings, the police are called upon to intimidate and suppress possible questioning by the river dwellers.

As part of the cooption, the company has promised to improve living conditions in the region, for example, combating malaria and dengue fever. However, this doesn't take into account what the people really need, which is mainly access to land and housing. They only accept individual negotiations with affected families, in order to diminish the power of collective negotiation.

Reports by the affected people say that the company donated motorcycles and ambulances to the police in the region. This is an old practice used by dam construction companies, because they need the police apparatus in case of possible conflicts with the affected people. The action to neutralize the fight of the affected people reached a high level of conflict. In March 2009, during mobilizations by the affected people, the company contracted buses from several companies so that the people would not have transportation necessary to participate in the protests. Indigenous populations will also be affected, since they are isolated tribes who never had contact with non-native peoples.

The environmental consequences are huge. In 2008, nearly 11 tons of fish died, which resulted in a fine from IBAMA (Brazilian Environmental Institute) of R$ 7.7 million. However, the company's practice has been to hide environmental and social problems from society, attempting to maintain a socially and environmentally responsible image.

3. Vale: the case of Aimorés Hydroelectric Power Plant

In Aimorés, the Eliezer Batista Plant was built on Rio Doce, in the state of Minas Gerais. Slated to operate with an installed power of 330 MW, of which 172.5 MW were assured (firm energy), a dam was built with a maximum height of 16.2 m. It was also necessary to create a 30.9 km^2 reservoir, considered to be about 16 km^2 of the natural chute of the river. AHE Aimorés belongs to a joint venture formed by Companhia Vale do Rio Doce (VALE) and Centrais Elétricas de Minas Gerais – CEMIG.

The people's suffering began in 1998, when the studies began, and worsened in 2005, when the work was completed. The building of the reservoir required complete flooding of the city of Itueta. According to studies, the Sete Salões State Park was partially flooded, which affected archeological sites. A total of 623 properties were appropriated, 553 being urban and 70 rural.

The project also required a diversion of Rio Doce between the main dam and the escape canal. This stretch crosses the city of Aimorés, causing the disappearance of the

water course. "The lower part of the river practically dried up, and almost totally did away with fishing. Before, during the off-season, a fisherman could only farm, but during the other part of the year, he could catch 5 to 6 kg per day, which meant 3 to 4 times the minimum wage", stated a local resident. Reports suggest that the community of fishermen has been experiencing a true psychosocial depression: "Many turned to alcohol or drugs. Some became ill, almost crazy. I had problems with epilepsy," said one fisherman. There are many reports of depression and stress due to abrupt changes in the lives of local people.

The poor quality of construction is also a concern, because of vulnerability to flooding. People claim that their houses are sinking. There are other risks, such as malaria and bilharziasis: "We are in an endemic bilharziasis region. The capivara population has increased, which is a host of the tick that transmits spotted (maculosa) fever. There has already been one case. A plant employee died of spotted fever after the dam closure." The difficulties in making Vale and other companies assume responsibility for these problems is enormous, "They change the negotiation teams every six months, and there is never any continuity. To make it worse, the joint venture doesn't give us the information we ask for, says a local resident."

A resident of Santo Antonio do Rio Doce made the following claim: "I worked at the dam, in the power house. I left suffering from physical damage. They didn't give me anything. I know of refuse that was thrown out and covered over, and that is now under the water. Chemicals that they used in the concrete work, truck filter oil. When the environmental officials came by, they ordered those of us in the front to plug the diesel oil. They made a hole, threw it in there, and now it's under the water".

4. Conclusion

We can conclude that, the struggle around energy has to be understood in its totality, in addition to the fight for the rights of affected families. We need to struggle for the transformation of the current economic model. In the sphere of production of energy, the struggle against hydroelectric power plants has become an anti-imperialist fight, because of the involvement of transnational corporations. In the realm of circulation, we demand lower rates for the population. The Brazilian people pay one of the highest electrical energy rates in the world, while large companies have gotten the same energy at a much lower price.

This struggle cannot be reduced to a discussion around an alternative to replace petroleum. The Brazilian energy model is organized within the financial capital framework, so as to permit the most looting and theft. Currently, the so-called "owners of energy" represent a fusion of large banks, world energy companies, mining and

metallurgy companies, contractors and large agribusiness enterprises. Therefore, this is not only a struggle for the population affected by the reservoirs. It involves all society, which is affected by privatization of water and energy.

The power of large land holdings, which is expressed in the so-called ruralist caucus in the National Congress, represents an impasse for any serious measure – approval of Law 438 for example – that anticipates the loss of property involved in slave labor. The old landowners were reborn with modern farming and ranching, in the form of agribusiness entrepreneurs.

Contemporary Slavery in Brazil: 1985 to 2009

Ricardo Resende Figueira[1]

Introduction

In Brazil, 121 years after promulgation of the Golden Law, slavery, even if illegal, persists in a new form, with a new face. This is confirmed in rural and urban areas by several studies. Given the persistence of the problem, the paths to a solution seem overwhelming. But what are the well trodden roads taken to combat or eradicate contemporary slavery?

During the Dictatorship, the action of the State was irregular, without a national plan for combating the crime and even without formal recognition of its existence; the little that was done depended on sporadic actions by the Federal Police (PF). It is not without reason, then, that the anthropologist Neide Esterci stated, in her research in the 1960s, before the known claims made in the following decades by pastoral agents, such as Dom Pedro Casaldáliga, that "members of the Federal Police most often furnished information on these practices" (2004: p. 22).

Information on this crime is not news. Since the middle of the 19th century it has been possible to find someone writing about the subject (Davatz, 1980)[2]. Also, the fiscal auditors of the Regional Labor Courts, even on carefully indicating what they

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[2] *For claims preceding the 1960s, see Figueira e Prado (2008: p. 92-93).*

found on the farms and ranches – armed men intimidating workers, torture and assassination of persons, the debt system present at the worksite, degrading situations regarding housing and food – often concluded that they found no signs of slavery.

For example, at the beginning of the 1990s, in the municipality of Floresta, south of Pará state, workers who tried to escape from a ranch were captured by the police who intended to return them to their employer. In another case, the police found out that a worker had been murdered while escaping from slave labor, and buried the dead man. In spite of having found the victim's documents, the death record only shows the word "Dog."

Nevertheless, how are social pressure and the State's response manifested since the New Republic? To better understand this, we will divide the period into three movements, with the understanding that these are not rigid and, at certain times, one period can overlap another. The division is as follows: a) 1985 through 1994; b) 1995 through 2002; c) 2003 through 2009.

1st Period: Frustrated Hopes

In 1985, Nelson Ribeiro, head of the Ministry of Agrarian Development and Reform (MIRAD), named the anthropologist Alfredo Wagner Almeida to the Office of Coordination of Agrarian Conflicts. Almeida collected claims from several sources such as the Pastoral Land Commission (CPT) and the labor movement, organized data and published a report on the subject. The state, through MIRAD, legitimized and gave status to a category – slavery – which up until then was used in literary texts, the press, by social agents, and more sporadically by the social sciences.

The pressure exerted especially by the CPT led, in July 1986, to MIRAD and Labor ministers signing, with the National Confederation of Agriculture (CAN) and the Agricultural Workers Confederation (CONTAG), a Protocol of Intention to join forces in Pará, Maranhão and Goiás "and contain the violation of the social and labor rights of rural workers" (Romero, s/d: p. 9). The city of Marabá, the site of the event was not chosen at random. The south of Pará was a region with many land ownership conflicts and slave labor claims. A short while later, in August, the same group signed "a *Letter of Intent* to eradicate slave labor, jointly with the Ministry of Justice and with the support of the Federal Police, the state governments, and the latters' police forces " (ibidem). The signatories held that failure to comply with labor legislation on rural properties would constitute reason for declassification of the property as a rural enterprise and prevent its making use of official resources such as fiscal incentives. However, two years later, Almeida (no longer with MIRAD) admitted that these provisions did not achieve the desired result.

From 1992 to 1994, during UN sessions[3] in Switzerland, representatives from CPT and from the Order of Attorneys of Brazil, invited by the International Human Rights Federation, denounced

the existence of forced and slave labor in Brazil and held the government responsible for failure to comply with international treaties and recommendations on the subject. The Brazilian Ambassador to the UN, Celso Amorim, as early as the first denouncement, recognized the problem and, in that same year, the federal government created the Program for Eradication of Forced Labor and Worker Enticement (PERFOR). This proved inefficient in confronting the situation and, shortly afterward, Anti-Slavery International[4] commissioned research on slavery in Brazil by journalist Alison Suttom. The research later became a book (SUTTOM, 1994).

The atmosphere of violence in the countryside and the murder of some union members in Rio Maria, Pará in 1990 and 1991, expanded the scope for repudiation of violence in the countryside and contributed to the creation, in Brasília, of a Forum for discussion of the subject. The meetings, begun at the Office of the Attorney General of the Republic, benefited from the participation of public employees from various ministries, members of the judicial power, the attorneys general, parliament, and civil and religious society. And one subject in particular was dealt with, slave labor. Out of the debate came a set of suggestions for preventive and curative measures to be implemented by the legislative and executive powers. One of the proposals was a constitutional amendment which would be known as the Ademir Andrade Amendment, which provided for the loss of property where the crime could be proven under Article 149 of the Penal Code: "To reduce someone to a condition analogous to slavery."

In the first decade after the dictatorship, the groups concerned with the slavery problem did not have much to celebrate. The number of enslaved individuals in the Amazon may have gone down relative to earlier years, but this fact was probably linked more to pressures by the North American and European movements for preservation of the environment against the release of funds for cutting down forests, than to government actions. With less felling of trees, there were fewer workers on the ranches.

2nd Stage: The Mobile Group and Combating Slave Labor

The second moment began in 1995. The new President, Fernando Henrique Cardoso, in a radio interview, recognized that there was slavery in the country, thanked the accusations made by CPT and distinguished modern slavery from older forms. National and international pressures, the interest of some public employees sensitive to

[3] *At the 17th, 18th, and 19th Sessions of the UN Working Group on Contemporary Forms of Slave Labor, in Geneva.*
[4] *Founded in 1839, with headquarters in London. One of its members was the Brazilian abolitionist Joaquim Nabuco.*

the problem, all this led to the creation of a body subordinate to the Chamber of Social Policies of the Government Council, which was made up of representatives of five ministries, the Executive Group for Combating Forced Labor, GERTRAF[5], to coordinate repression of the crime. And, at the Ministry of Labor and Employment (MTE), a Special Group for Mobile Surveillance (GM) was set up, subordinated to the MTE's Secretariat of Surveillance. In November 1994 a "Letter of Intent" was signed by MTE, the Federal Public Prosecutor, the Public Ministry of Labor, and the Federal Police Secretariat, got the purpose of "eradicating" various crimes, among them rural "forced labor."[6]

The Public Ministry of Labor had a greater presence in the surveillance work and in 1999 made the directors of the Maranhão steelworks sign a Conduct Adjustment Agreement (TAC). Compliance was promised with labor standards for charcoal production.

Between 1995 and 2002 the GM carried out 177 surveillance operations on 816 ranches and rescued 5,893 people. In the same period there were claims of urban slavery, such as the case of Bolivians in the garment manufacturing business in São Paulo. These workers were submitted to a "system similar to that of the rent slave from pre 1888 Brazil," concluded researchers Adriana Romero and Márcia Sprandel (2003: p. 123). According to those same authors, between 2000 and 2002 there was a record of slave labor in twelve states in Brazil, involving not only Amazônia, but the Northeast, Center West, South, and Southeast, in activities that ranged from rock and rubber extraction, fruit production, soy, clearcutting of forests, and steelworks. According to human rights organizations, fleeing or being freed was insufficient, because without economic alternatives the workers were still vulnerable to new enticements.

The Government enacted Law No. 9,777/98 which established greater sanctions for cases involving conditions analogous to slavery. However, even from the penal point of view, there was one problem. According to Romero and Sprandel, if in 1999, 600 persons were rescued by the GM, in that same year there were only two cases of imprisonment. And they reported that there was slowness in the judicial process and a lack of coordination between government entities. Not only were there few convicted individuals, nor did such touch the large land holders, but the budget anticipated for the program to combat slave labor was insufficient and there was a scarcity of personnel:

"The mobile surveillance of the Ministry of Labor, which verifies claims of slave labor exploitation in 8.5 million km^2, has only 12 employees dedicated to that activity. The Federal Police, in turn, has only 12 police and one chief to accompany the Mobile Group" (ROMERO & SPRANCEL, 2003; P. 123).

[5] *By means of Decree No. 1,538, of June 27, 1995.*

[6] *"with the purpose of joining forces with a view to prevention, repression, and eradication of the practices of forced labor, illegal child and adolescent labor, crimes against labor organization and other violence against worker's health rights, especially in the rural environment" http://www.mte.gov.br/trab_escravo/termo.pdf*

3rd Period: Eradication?

In 2003 Lula da Silva, the new President, created, with the status of a Ministry, the Special Secretariat on Human Rights (SEDH) of the Presidency of the Republic. Nilmário Miranda, head of SEDH, announced that the Federal Government intended not only to combat, but to *eradicate* slavery in the country by the end of the presidential mandate. In a ceremony at the Planalto palace, the President set forth the First National Plan for the Eradication of Slavery. The document had been prepared by the Special Commission of the Council for the Defense of the Rights of the Human Person (CDDPH) of the preceding government[7]. At the same ceremony, the President signed the bill indemnifying José Pereira, in response to a friendly agreement suggested by the Organization of American States (OAS), which had been under discussion at the OAS since 1992[8]. Shortly thereafter the National Commission on Eradication of Sale Labor (CONATRAE) was created, tied to SEDH, to follow up on fulfillment of the National Plan, the handling of law bills in the National Congress, to evaluate technical cooperation projects with international organisms and to propose studies and research on slave labor in the country.

The climate, now more favorable to confronting the problem, allowed for implementation of various measures, such as local and national campaigns to eradicate slave labor; the drafting of a list published on the MTE site with regard to the owners involved with the crime; commissions were formed for the eradication of slave labor in some states; measures were implemented that prevented access by firms on MTE's *Dirty List*[9] to financing, contracts and agreements with public entities; set up studies on the chain of production and selling of products from farms on that List; a Social Pact was implemented between firms that promised not to acquire such products and the Second National Plan for Eradication of Slave Labor was prepared; the competence of the federal courts was defined for hearing and judging the crime anticipated by article 149; in Marabá 32 slave labor trials were held, with 27 persons convicted.[10] Aside from this, there was a substantial increase in publications about the crime, in television reports and in the press in general (See Attachment 1).

In spite of measures such as the Bolsa-Familia (Family Allowance) Program and the Program for Eradication of Child Labor (Peti), the surveillance carried out by the Mobile Group and the actions by the Justice Branch, the change in the text relative to Article 149

[7] *Constituted under Resolution 05/2002 of CDDPH.*

[8] *José Pereira, in 1989, at the age of 17, was enticed with other workers in Xinguara, Pará, to the Espírito Santo ranch belonging to the Mutran family. On seeing the working conditions and the threats made by the contractor and his agents, José Pereira and Paraná, another young man in the same situation, fled, but they were captured. The former survived, although he suffered a head wound, but the other did not. There was procrastination in the completion of the police inquiry and the case was put before the OAS (Figueira, 2004).*

[9] *Register of Employers, as provided for in MTE Portaria No. 540/2004, "contains flagrant violators exploiting workers under conditions analogous to slavery," in http://www.mte.gov.br/teab_escravo/cadastro_trab_escravo.asp. Accessed on 16.10.2009.*

[10] *For measures put into motion by various actors involved in some way with the problem, see this author's article in the 2006 Report (Figueira, 2006: 61-65).*

of the CPB, the problem was not overcome. If before there were no judgments, the 27 convictions by the Federal courts in Marabá, in March 2009, had no immediate effect. There was not a single individual convicted by the courts who was imprisoned for the crime of slavery. And the problem persists, as revealed by the number of rescues.

According to MTE data, published on its site[11], between 1995 and September 11, 2009, 34,999 workers were rescued from ranches in various parts of Brazil. Of these, 2,216 occurred in little more than eight months in 2009. This was half of those rescued in the twelve months of the preceding years; but it was also more than four times those freed in the entirety of 2000; or corresponded to more than 26 times the number rescued in 1995, the first year of the Mobile Group's existence. According to the CPT, in the first half of 2009, claims relative to slave labor in the country came to 3,180 persons, and of these 2,013 had been rescued. This reveals that surveillance did not reach all the victims, not even those who had made claims. The other aspect that the survey reveals is that in some cases, such as Acre, Bahia, Espírito Santo, Pernambuco, Rio de Janeiro, and Tocantins, the numbers for this semester were greater than for 2008. See following Chart:

Number of Workers Freed

	Acre	Pernanbuco	Espírito Santo	Rio de Janeiro	Tocantins	Bahia
2008	0	309	89	57	78	106
2009 (up to end of June)	5	329	369	280	296	188

Source: CPT: http://www.cptnac.com.br/?system=news&action=read&id=3311&eid=6

The CPT states that in this period the Southeastern region showed a surprising 39% of those rescued in the country; the Northeast, 28.8%, and the North, always with the highest index, 21.9%. CPT adds:

One fact that always caught our attention is the number of youth involved in the slave labor cases. While for the first half of 2008 there were 16 youth rescued, in 2009, during the same period, there were 88. Almost one yuth for each conflict. This shows that there is a new generation under the yoke of slavery, perpetuating the history of their forbears.

On verifying the numbers furnished by the MTE, we can see that from 1995, the year in which the Mobile Group was created, to 2002, the period of the Fernando Henrique Cardoso government, compared with the following period, from 2003 to 2008, there was a substantial increase in surveillance operations (4.5 times); the number

[11] *http://www.mte.gov.br/fisca_trab/quadro_resumo_1995_2009.pdf, acessed on 01.11.2009.*

of ranches investigated (2.23); the number of individuals freed (6.08); the absolute value of fines (6.26) and legal papers drawn up (3.72). It is revealing that while in the 2000 to 2002 period the average fine per legal paper drafted was R$ 84.66, in the second period the average rose to 2,592.41. The unit fine value thus went up more than 30 times. The auditors saw that the fines imposed until then did not have the effect of discouraging the crime.

Comparative Data on State Actions in Combating Slave Labor Carried Out During Different Governmente Mandates

Period	FHC Government 1995-2002	Lula Government 2003-2008
Annual average of surveillance actions	22	101
Annual average of farms inspected	102	225
Annual average of workers freed	736	4.482
Period	**2000 a 2002**	**2003 a 2008**
Annual average value of works	R$ 1.171.730,85	7.339.572,14
Annual average of works	760	2.831
Annual average fine for works	R$ 84,66	2.592,41

Source: MTE data, organized by the author.

By Way of Conclusion

What is the reason for the persistence of this crime, if such measures are implemented?[12] The problem is complex and requires decisions to which there is strong resistance. Without dealing in depth with the distribution of income, without creating employment and overcoming poverty, without offering good quality public education for all,[13] the solution remains far off. One of the measures what would certainly help, for example, would be agrarian reform, which is anticipated in the Constitution, but is still a dead letter.

The power of large land holdings, which is expressed in the so-called ruralist caucus of Congress, represents an impasse for any serious measure – approval of Law 438 for example – that anticipates the loss of property involved in slave labor. The power of large landowners is found not only in Congress, but also in

[12] *See Esterci and Figueira on this subject (2008: p. 331-346); Figueira 1999: p. 165-208)*

[13] *Cristovam Buarque wrote on this subject: "The truth is that that magnificent (Golden) law, in one sole article, did away with the possibility of selling human beings, as well as the use of forced labor. But it didn't do away with slavery, we prohibit working against one's will and without pay, but we permit unemployment. We authorize slaves to leave their shanties, but we free them [to go] to the favelas, under the freeways, the tents of the MST. We've stopped sending the leftovers from the mansion to the shanties, and created hunger that slaves never knew. And the worst: we abolished the prohibition on the children of slaves attending school, but we didn't get them into schools. They were left to wander the streets, abandoned" (2007).*

the other branches of the government and in the mainstream media. Even in the face of such difficulties, since the problem is attacked in one corner and then later bursts forth in a different one, as if it were a case of cleaning up ice with a dish towel, human rights organizations perceive that it is necessary to remain alert and condemn. Constant vigilance is needed to oppose the power of the rural oligarchies' conservative thinking.

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Indigenous peoples are seen as obstacles to economic development and continue to be stigmatized as threats to national sovereignty - an argument that supposedly would legitimize denial of their fundamental rights.

Indigenous Peoples: The long march for recognition of stolen humanity

Rosane F. Lacerda[*]

To analyze the situation of indigenous peoples from the perspective of Human Rights is to deal with a complex and wide scope of questions. Such questions require greater attention on the part of academic researchers, allied institutions and movements. In these brief pages we shall survey, in summary form, some elements of an historical nature on the processes of denial and recognition of the Human Rights of Indigenous Peoples.

From cannibal *homunculus* to children of Paradise: negation of otherness

The first historical element, important in order to understand the present situation of the indigenous peoples, has to do with whether or not Amerindians fit within the category of "men." European intellectuals of the XV and XVI centuries hotly debated this, seeing the indigenous either as beings belonging to the Plinean[1] races or as legitimate descendants of the biblical Eden. Their recognition as "men" and not as beasts was only effected by the Papal Bull *Subllimis Deus* in 1537[2]: contrary to animals, the indigenous

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[1] *Fantastic beings, sometimes without heads, with tails and a mouth in the stomach, described in work* Historia Naturalis, *by the Roman naturalist Pliny the Elder (CE 23-79).*

[2] *SUESS, Paulo. A Conquista Espiritual da América Espanhola (The Spiritual Conquest of Spanish America). Petrópolis: Vozes, 1992; pp. 273-275.*

had the capacity to receive the doctrine of Christianity. Their status as "men" resulted not from anatomical-physiological criteria, nor from belonging to a determined historic-cultural community, but from their potential for conversion to Christian values.[3] A few years later the question would return in the celebrated debates of Valladolid (1550) when, before the Council of Fourteen, the theologian and jurist Ginés de Sepúlveda would affirm that, in spite of the Bull, the Indians occupied a lower position on the scale of nature. They would be "homunculus" in which only "vestiges of humanity" would be found.[4]

In Brazil, even during the Empire, intellectuals and politicians at Court seemed to want to continue Sepulveda's campaign, making use of arguments that strongly influenced indigenist policy of the 19th century. Senator Vergueiro, for example, on declaring that 'the Indian race does not have the necessary capacity to govern itself," criticized the attitude of the Lisboa government on considering "that Indians were men like us, who should enjoy equal rights, without reflecting that they did not have like capacity."[5] The Marquês de Mont'Alegre in turn affirmed: "some are so ferocious that there is no way to tame them." And another prominent figure, Senator Barros Leite, on speaking before the Senate of the Empire, referred to the indigenous villages as "colonies of thieves and murderers," and to the Indians as "a race with innate inclinations towards all vices, towards their own destruction." And he concluded: "The Indian, throughout America, shows ferocious, treacherous, untamed and antisocial inclinations."[6]

Another historical element that is relevant for understanding the treatment even today given to the indigenous has to do with the idea of their supposed childlike qualities. The vision of Amerindians as childlike beings had its beginnings in the studies of Francisco de Vitória, renowned jurist and professor at the University of Salamanca. In his *De Indis et de Iuris Belli*[7] published posthumously in 1557, Vitória put forth the theory that the "stupidity" seen as a characteristic of the indigenous was not the result of a supposed natural inferiority, but of the limits imposed by their deficient and inadequate education. Indians thus educated were at the same level of rusticity as European peasants. They would be men, but at an

[3] For Professor José Carlos Moreira da Silva Filho, "once the idea prevailed that the Indians were men, although savages, the idea became clear that something unites all human beings and constitutes humanity," later entering into modern philosophy to furnish a "secularized face for Christian universalism" revealing the cultural construct of the idea of the human person. VIDE SILVA FILHO, José Carlos Moreira da. "Pessoa Humana e Boa-Fé Objetiva nas Relações contratuais: a alteridade que emerge da ipseidade (The Human Person and Objective Good Faith in Contractual Relaltions:the alterity that emerges from ipseity"). In: COPEETI, SEVERO & STRECK (Orgs.). Constituição, Sistemas Sociais e Hermeneutica (The Constitution, Social Systems, and Hermeneutics). Post-Graduate Law Annual – 2005, No. 2. Porto Alegre, Livraria do Advogdo Editora, 2006, pp. 116-117.

[4] SEPÚLVEDA, Juan Gines de. Democrates Segundo o de las Justas Causas de la Guerra contra los Indios (A Second Democritus or the Just Causes of the War Against the Indians) Madrid. Bulletin of the Royal Academy of History, XXI; pp. 153-54

[5] VE3RGUEIRO, Senador. Apud VARNHAGEN, F.A. De Os Índios Bravos e o Sr. Lisboa (The Wild Indians and Mr. Lisboa). Timon 3, 2nd Part. Imprensa Liberal, IDMA, 1867; p. 396.

[6] BARROS LEITE, Senator Dantas de. Apud VARNHAGEN, Op. Cit.; p.54.

[7] "Os Índios e o Direito de Guerra (The Indians and the Right to War)". The De Indis was part of Relectiones Theologicae XII, texts prepared by Vitória as part of the classes he taught at Salamanca.

infantile stage. And, like children, they would have the same possibilities of maturity provided that – for their own good – their persons were placed under protection.[8] In Brazil the theory of childlike qualities or of indigenous incapabilities was disseminated over time. In the 19th century Varnhagen, for example, defended [their] imprisonment, as "helpless children," in new "bandeiras": "we subdue our savages, educate them by force, and 15 or 20 years later, when they no longer need guardianship, we make them worthy citizens and good Christians," said the Viscount of Porto Seguro.[9]

A third element is classification of the indigenous with the status of allies or enemies. From the 16th to the 19th century this meant, in Brazil, the distinction between freedom and slavery. As "allies" and thus recognized as men and owners of their persons and goods, there were village and Christianized indigenous peoples, mobilized for armed incursions against other groups eventually in conflict with colonial economic interests. As "enemies," and therefore situated outside the human condition, to be combated and exterminated or hunted and sold, were the groups identified as practicing cannibalism. Against the latter the so-called "Just Wars" were instituted. According to the historian G. Thomas, "almost all the tribes that did not live under the dominion of the colonizers were considered barbarian and cannibal," which made for "sufficient juridic justification to enslave all Indians outside the Jesuit villages."[10]

Throughout the 20th century many of such elements were present in concepts and practices of various types in the treatment given to indigenous peoples, both in the common thought of the regional non-indigenous population and in what L.A. Warat calls "theoretical common sense," especially that of jurists.[11] Denial of their humanity to the indigenous appears in innumerable reports, seen as "brutes," "savages," "animals" and "beasts" who can be killed and disrespected without any burden on conscience. The need for reaffirmation of their human condition became obvious in 1980, in the *Habeus Corpus* requested on behalf of Xavante Mário Juruna, prevented from traveling overseas under the argument of being indigenous and, therefore, "under guardianship." In an historic decision by the old Federal Court of Appeals, Minister Bolívar de Brito asked: "is there some doubt that this forest dweller is a man? Evidently not. And if

[8] *LACERDA, Rosane Freire. Diferença não é Incapacidade: O Mito da Tutela Indigena (Difference is Not Incapacity: the Myth of Indigenous Guardianship). São Paulo: Editora Barauúna, 2009; pp. 67-71.*

[9] *VARNHAGEN, F.A. Memorial Orgânico. 2nd ed. In: Revista Guanabara, RJ, Typografia da Empreza Dous de Dezembro, de Paula Brito, Impressor da Casa Imperial; pp. 389-402.*

[10] *THOMAS, Georg. Política Indigenista dos Portugueses no Brasil: 1500-1640 (Indigenist Policy of the Portuguese in Brazil: 1500-1640). São Paulo: Loyola, 198; p.105*

[11] *For the author, theoretical common sense "represents a system of understanding that organizes data from reality, attempting to ensure reproduction of predominant values and practices," that is "a discourse that offers responses that scarcely allude to what is real and are ordered by interests that take the form of principles or directives," representing "a set of questions where the responses are already predetermined" [WARAT, Luiz Alberto. The Theoretical Common Sense of Jurists. In: SOUSA JR., José Geraldo de (Org.) Introdução Crítica ao Direto (Critical Introduction to Law). The Law Found on the Street Series. Vol. I. 4th ed. Brasilia: Editora da UnB; 1993; pp. 101-102].*

there is no doubt, (…) the absence of a Brazilian man cannot be prevented, whether he is a forest dweller or not."[12]

The survival of indigenous "childishness" had help in the Civil Code of 1916 which declared them to be "relatively incapable," a pretext for abuses such as that committed against Juruna, and curtailment of the Indians' right to speak, political participation, decision making on their own life plans.[13] In truth, discourse on indigenous incapacity composes "an ideological product that tries to enclose the Indians in a condition of natural inferiority, as non-contemporary beings, living fossils of a prehistoric age, inadaptable to the present," an inconvenient presence to be overcome for the consolidation of a concentrating agrarian structure and for the expansion of economic frontiers.[14]

Therefore, the view of the indigenous as allies or enemies persists in the imagination of the sectors linked to security forces, in the demand for guarantees of fidelity to the national state from an integrationist perspective, as a condition for realization of rights in frontier regions. In these regions the indigenous peoples seen as obstacles to economic development projects continue to be stigmatized, now as threats to national sovereignty, an argument that supposedly would legitimize denial of their fundamental rights.

Equality in Diversity: the long road toward the conquest of the right to be different

In a counter-hegemonic way, the struggles for recognition of the human dimension of Amerindians has been going on since the beginnings of the Hispanic conquests in the New World. A landmark in this regard was the celebrated sermon *ergo vox clamantis in deserto,* given by Montesinos in 1511 on the Island of Hispaniola before the conquistadors: "I say, with what right and what justice do you hold those Indians in such cruel and horrible servitude? (…) Are they not men? Do they not have rational souls? Are you not obligated to love them as yourselves?"[15] Later, in his controversy with Sepulveda in Valladolid, the Dominican Bishop Bartolomé de Las Casas (today patron of Human Rights in the Americas) armed with his monumental *Apologetica Historia*, rebutted the jurist's arguments to conclude that the American Indians not only are not inferior, but are *"above the level of ancient communities"* fulfilling the requirements proposed by the Greek philosopher Aristotle for a virtuous life.[16] As Bruit observes,

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[12] LACERDA, Rosane F. Diferença não é Incapacidade (Difference is Not Incapacity). Op. Cit., pp. 402-402.

[13] A view which lasts contrary to the new paradigms launched by the Federal Constitution of 1988. In this regard, see the previously cited "Difference is Not Incapacity," dedicated to understanding the origins, historical trajectory, and continuation even today of the concept of indigenous incapacity by various sectors.

[14] LACERDA, Rosane F. Diferença não é Incapacidade (Difference Is Not Incapacity). Op. Cit. P. 125.

[15] LAS CASAS, Fray Bartolomé de. Historia de las Indias (History of the Indies). Bk. III, Ch 4. México: Fundo de Cultura Econômica, 2nd ed., 1965; p.441.

[16] HANKE, Lewis. El Prejuicio Racial em Nuevo Mundo: Aristóteles y los Indios de Hispanoamérica. Colección America Nuestra. Santiago de Chile: Editorial Universitaria, 1958; p. 62. Original work in English: Aristotle and the American Indians: A Study in Race Prejudice in the Modern World.

"the liberty and courage with which Las Casas criticized the conquistadors, authorities and ecclesiastics , were truly great deeds in an era in which the Inquisition had no obstacles to censure and condemn acts and ideas outside common dogma."[17]

In Brazil, differently than in Spanish America, defense of the human condition of the indigenous never became a big factor for large political or philosophical mobilizations. For José de Anchieta, for example, it had to do with a "wild and bloody nation."[18] Later, however, in the Epiphany Serman (1662), Antônio Vieira proclaimed against enslavement of Christianized Indians: "we cannot sustain ourselves otherwise, unless with the flesh and blood of the miserable Indians! Then is it they who eat people? We, it is we who are eating them!" Vieira complained of the fact that when the savages "who yesterday were beasts" today "begin to become men," they are at the mercy of the colonists who want to enslave them as [if they were] blacks."[19] He then defended a stronger action by the Crown to protect the Indians as a moral duty by reason of their "incredible incapacity and ignorance."[20]

But later, in the first decades of the Republic and under the influence of the Positivist Apostolate (movement based on the ideas of August Comte and influential in important political and military sectors), the approach to dealing with the indigenous question in Brazil was formulated based on the idea of protection with a view to development of their evolutionary capacity, that is, for integration within the molds of the dominant western culture. With the Indians continuing to be seen as childlike due to their lack of understanding and information about the technical marvels of the civilized world, it was believed necessary to protect them in order for their evolution to be "smooth and untraumatic:: "To make the Indian a better Indian," said one of the principles of the old Indian Protection Service (SPI), historically idealized and led by Marshal Cândido Rondon.

By this point, however, the greater part of the indigenous population had already been exterminated, overpowered or officially considered to have disappeared. The *coup de grace* had occurred decades earlier, during the Empire, with the land lease policy of the General Directors of Indians, and the decrees for the destruction of settlements set down by the provincial governments. Many indigenous peoples thus entered into the 20th century almost completely decimated, suffering enormous losses of territory and

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[17] BRUIT, Hector Hernan. Bartolomé de Las Casas e a Simulação dos Vencidos – Ensaio sobre a Conquista Hispánica da América (Bartolome de Las Casa and the Simulation of the Conquered – Essay on the Hispanic Conquest of America). São Paulo: Editora da Unicamp: Ilumiuras Ltda; 1995; p. 65.

[18] Letter from Pe. José de Anchieta to Diego Laínez. São Vicente, 8 January 1565. In LEITE, Serafim. Monumenta Brasiliae. Roma: Monumenta Histórica Societatis Iesu, 1596-1568. Vol. IV, p.127.

[19] VIEIRA, Pe. Antônio S.C.J. Sermão da Epifania (Sermon of Epiphany). Rio de Janeiro: Fundação Biblioteca Nacional; vol. IV...." The celebrated Jesuit protested against enslavement of the Indians, but clarified: "it is not my intention that there not be slaves, (…) we only want lawful ones…"

[20] VIEIRA, Op. Cit. Idem.

enduring the violence committed in conflicts over possession of their lands, many of which are still ongoing.

But the struggles for recognition of the rights of indigenous peoples reached a new level with the unfolding of the 20th century, through the advances in the recognition of human rights in International Law, the changes in perspective in anthropological and indigenist studies and appointments, and through the concrete struggles for freedom carried out by the indigenous movement itself.

In the International Law plan interest in the indigenous question began in 1921 within the International Labor Organization (ILO), through a study which found among the "native populations" of the European colonies, subjection to inhuman working conditions, being obliged to abandon their ancestral lands "to become seasonal workers, migrants, in conditions of servitude or as house workers and thus exposed to exploitation on the job."[21] According to Fergus Mackay, in 1926 the ILO formed a Committee of Specialists to investigate the working conditions of such populations and recognized the need to extend its protective actions to indigenous workers, with resulted, in 1930, in ***Convention No. 29 on Forced Labor.***[22] Later, already linked to the United Nations, the ILO adopted, in 1957, ***Convention No. 107 "on Protection and Integration of Indigenous Populations and other Tribal and Semitribal Populations of Independent Countries."*** The Convention aimed on the one hand to protect indigenous populations against acts of ethnic-racial discrimination within the realm of labor and associated relations. On the other, it captures the ethnocentric vision predominant in the era; it assumed the purpose of integrating them within the hegemonic sociocultural standards in the respective states. In spite of being the subject of protection under specific international diploma, indigenous identity was still conceived of as transitory, keeping in sight the perspective of *integration.*

The 1960s and 1970s brought marked changes that ended up altering such a perspective. An important step was the adoption of a new attitude by the Social Sciences in Latin America. In 1971, at the Symposium on Inter-ethnic Friction in South America, a group of social scientists unveiled the ***"Barbados I Declaration"*** which demanded a radical break with the historical colonialist practices adopted by the Social Sciences, by the States, and by religions missions. It asserted that it was the State's obligation to guarantee to indigenous populations "the right to be and remain themselves, living

[21] *OIT. "Antecedentes de la Labor de la OIT Respecto de los Pueblos Indígenas y Tribales (Background of the Work by the ILO with respect to Indigenous and Tribal Communities)". Available at< http://www-ilo-mirror.cornell.edu/public/spanish/indigenous/background/index.htm> (Accessed 22.05.09)*

[22] *MACKAY, Fergus. Los Derechos de los Pueblos Indígenas en el Sistema Internacional. Una Fuente Instrumental para las Organizaciones Indígenas (Rights of Indigenous Communities in the International System. An Instrumental Source for Indigenous Organizations). – Lima : Asociación Pró Derechos Humanos - APRODEH : Federación Internacional de Derechos Humanos - FIDH, 1999.; p. 146.*

according to their customs," to "organize and govern themselves according to their own cultural specificity," without, however, preventing its members from the exercise of all the rights of citizens."[23] Two years later, in 1973, a group of 12 bishops and Catholic missionaries in Brazil, involved with the indigenous cause, unveiled the document ***"Y-Juca-Pirama. The Indian: He who must die,"*** where, besides denouncing the reality of massacres and cultural devastation of the indigenous peoples, declared: "we do not accept a type of 'integration' that merely tries to transform them into cheap labor (…) even yet for its being more humiliating and criminal, we will collaborate with work that anticipates transforming the Indian into a human being that does not need protection, because he is neither a minor nor an invalid…"[24]

Such positions reinforced the critics of Convention 107 with respect to the negative consequences of its integrationist perspective. As Marco Antônio Barbosa observes, Convention 107 was seen as "paternalistic, ethnocentric, evolutionist and in disagreement with the most recent anthropological research."[25] A movement then began for its revision and finally, in June 1989, ***Convention 169 on Indigenous Peoples and Tribes*** was adopted, the principal paradigm being recognition of the cultural institutions and ways of life of the indigenous peoples as elements to be respected by the Member States of the ILO. The integrationist model having been abandoned, the Convention has as its perspective the right of such peoples to maintain their own identities, through strengthening their cultural, linguistic, and religious specificities. It also adopts the principle of respect for the "aspirations of these peoples to assume control of their own institutions and ways of life and their economic development," i.e. their right to autonomy.

Convention 169 would only be incorporated in the Brazilian legal system in 2005, but by this point the advances produced therein would already be contemplated in new paradigms in the ***Constitution of 1988*** with respect to recognition and protection of the ethnic-cultural diversity of indigenous peoples. It should be noted that both – Convention 169 and the "Citizen Letter" of 88 – were drafted in the same era, both being in tune with innovative ideas in the field of human rights of indigenous peoples. With the intense and fresh participation from this and other allied sectors, as well as organized social movements in general, the Constituent Assembly of 1987/1988 marked the point of breaking with the prior constitutional paradigm aimed at incorporating the

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[23] See text of the Declaration in LACERDA, Rosane F. Diferença não é Incapacidade (Difference is Not Incapacity). Op. Cit., pp.381-387.

[24] See integral text of the document Y-Juca-Pirama in PRÉZIA, Benedito (Org.) Caminhando na Luta e na Esperança (Traveling in the Struggles and in Hope). São Paulo : Edições Loyola:Cimi: Cáritas Brasileira; 2003, p. 139.

[25] BARBOSA, Marco Antônio.Autodeterminação: Direito à Diferença (Self-Determination: the Right to Difference). São Paulo: Plêiade: Fapesp, 2001; p.225.

indigenous into the national Brazilian community. The Letter of 1988 recognized for the Indians their own forms of social organization, their customs, languages, beliefs and traditions, as well as the right to utilize, in the educational system, their maternal languages and their own learning processes. It also recognized their primary rights to the lands they traditionally occupy, with these lands to be demarcated by the Federal Union, and which are defined as those they occupy permanently, use for their productive activities, need in an irrefutable way for preservation of environmental resources necessary for their well being, and for their physical and cultural reproduction, according to their uses, customs, and traditions. The territorial and cultural rights of the indigenous peoples constitute thus their fundamental rights, those constitutionally recognized as necessary for realization of the principle of respect for the dignity of the human person.

A later movement in consolidation of international instruments recognizing the human rights of indigenous peoples came more recently with the ***Universal Declaration of the Rights of Indigenous Peoples.*** Drafted by the Working Group on Indigenous Populations of the Sub-Commission for Prevention of Discrimination and Protection of Minorities, the Declaration was approved in 2006 by the Council on Human Rights and in 2007 was approved by the UN General Assembly, with the Brazil State's representative voting in favor.

Indigenous rights on the permanent agenda of the struggle for human rights

In spite of the latest conquests in the formal recognition of their human rights, the indigenous peoples are still the victims of systematic and all types of violations of their rights. Reports prepared and issued periodically by the Missionary Indigenist Council (Cimi) note that indigenous reality in Brazil has chronically involved extremely high numbers of deaths by murder, suicide, malnutrition, and infectious diseases, as well as constant occurrences involving threats of death, attempted murders (many of which resulting in serious or extremely serious bodily injuries), sexual exploitation, slave labor, criminalization of struggles and leadership, racial discrimination, etc. Nearly sixty peoples living in voluntary isolation in the Amazon regions forests continue to be in an extremely vulnerable position, in the face of the advance of a predatory and concentrating economic model. A large part of the cases of violence against indigenous peoples is directly attributable to the pressures of large national and transnational economic groups for possession of indigenous lands and their natural riches.

The Indians continue to be seen as an obstacle to "development." Each administrative or judicial act, concretizing territorial rights carries with it, for each

indigenous community, enormous costs, in the form of the sacrifice of human lives, imprisonment or restriction of freedom for their leaders.

Thus, even considering some advances in the legal realms, we still need to engage in intense political battles, as if they were still living in the 16th century. However much outdated they may be (from the historical point of view), the essence of the Valladolid debates of 1550 between Sepulveda and Las Casas regarding the humanity of the indigenous, are still quite current. And this is why the rights of indigenous peoples must be continually underlined in the struggles for human rights, in this Country and throughout the Continent.

The collective utilization and preservation of local natural resources establishes a relationship between quilombola communities, breaking with the idea of a private space. In other words, the river of a given locale may provide the women from several communities a place to launder clothes or collect water. Common pasture lands serve as a place to fatten the animals of several communities. Communities that don't have sufficient land for production generally enter into an agreement with neighboring communities, so all people can plant or use the flour mill for another community's production.

From Quilombo to Movement: organizing the fight for the right to land in Brazil

Josilene Brandão da Costa[*]

1. Introduction

The representative quality and the political pressure of the *quilombola* movement were always questioned by public entities in reference to land ownership policies. These questions referred to a supposed passivity in the ways used to put pressure on the government to guarantee land rights in Brazil. The fact that *quilombola* communities have not organized large demonstrations does not signify passivity. To the contrary, what is most evident is the State's failure to recognize that permanence on the land is a distinguishing mark of resistance in the struggle for our rights. On the other hand, this aspect brings to the fore the debate on ethnic rights in Brazil, and evidences the lack of

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ability on the Brazilian government's part to construct procedures and mechanisms for dialogue with these communities.

Several elements make up the *quilombola* organizational universe, making it necessary for the State to recognize the historic debt it owes these communities. If we consider the adversities suffered in order to remain on their land, we can detect a revolutionary resistance organization. D. Miúda, one of the *quilombola* leaders from Sapê do Norte in Espírito Santo[1], shared the following: "*Our community was impacted by Aracruz Celulose eucalyptus, but we are going to resist. We will not leave this land, this land is ours. We will continue to cultivate food because we can't eat eucalyptus."*

This resistance demonstrates a sense of belonging, and likewise an organizing process founded on the community identity with the land. Taking Alcântara, in Maranhão, as an example, more than 300 *quilombola* families were forcibly displaced from their places of origin, and moved to *agrovilas,* as part of the CLA[2] space project. These communities did not abandon the the struggle to retake their lands. Dona Margarida, a local resident, says: "*My dream is to return to my land and my house."* The search for the means to keep their territory is permanent. The struggle took on an international dimension thanks to the communities' resistance, recognition as *ethnic territory*[3], and confrontation with the Brazilian state in order to resist forced displacement.

One interesting aspect is the diversity of *sacred spaces* in that territory, which serve as a motivating force for the communities' struggle. The CLA project envisions an expansion that would entail the disappearance of those spaces, as well as the Afro-religion *terreiros* used for ritual purposes in Maranhão, which are vital elements for resistance and maintenance of cultural identity.

Repression against *quilombola* communities demands constant mobilization of the movement. The situation at Ilha de Marambaia, in the state of Rio de Janeiro, reveals a very strong counterpoint to the myth of racial democracy in Brazil. The *quilombolas* of that island live with constant coercion of their right to come and go, and must cope every day with being monitored by the Brazilian Navy.

According to Almeida (2002, p. 74), the local specificities of *quilombola* communities require an organizational model that differs from a generalized structure. The communities take into consideration aspects such as kinship relationships outside of

[1] A region located in the north of Espírito Santo recognized as the quilombola territory of Sape do Norte. Made up of approximately 60 communities, it comprehends the municipalities of São Mateus and Conceição da Barra. The entire region is currently being planted with eucalyptus by the Aracruz Celulose corporation, including public lands. Seventy percent of the municipality of Conceição da Barra, including the urban area, is being taken over by eucalyptus plantations.

[2] Alcântara Launch Center – Aeronautics Ministry satellite and rocket launching space project. The project has several cooperative agreements with other countries, and intends to expand its structure.

[3] Anthropological investigation carried out at the request of the Federal Public Prosecutors Office – 6th Chamber, coordinated by anthropologist Alfredo Wagner, which recognizes the case in question as an ethnic territory due to the cultural, productive, and social relationships established between these communities.

blood relationships, as well as productive, commercial, and religious activities. The collective utilization and preservation of local natural resources establishes a relationship between these communities, breaking with the idea of a private space. In other words, the river of a given locale may provide the women from several communities a place to launder clothes or collect water. Common pasture lands serve as a place to fatten the animals of several communities. Communities that don't have sufficient land for production generally enter into an agreement with neighboring communities, so all people can plant or use the flour mill for another community's production.

In *quilombola* organization one can see a joint effort that lies outside official administrative and geographic units. For example, the *quilombola* territory of Kalunga, in Goiás, contains three municipalities: Teresina, Monte Alegre, and Cavalcante. This means that each of these communities belong to a distinct geographic unit. These elements have constituted a different form of organization with regard to the right to land, demanding from the State a distinct mechanism for implementing policies.

Quilombola communities struggle to keep their places of origin, and not any piece of land. This concept is based on community relations, and influences their organizational process. The concept of land rights in these communities is not merely associated with the need for production, but it's also related to cultural identity. And the identity of these groups cannot be disassociated from cultural elements linked to an African origin, as this establishes an organizational style that differs from other social groups.

The *quilombola* families that lost their land, and were forced to move to the outskirts of urban areas maintain a strong relationship with their places of origin. The constant coming and going to work in the fields or in other activities establishes ties that sustain identity. In Sapê do Norte, *quilombola* communities usually organize reunion of families around festivities. Each year, the family of Dona Rosa returns to Conceição da Barra where relatives and friends gather for the Ticumbi festival. This shows the maintenance of cultural ties fed by the dream of seeing that territory titled, and return to their land of origin.

2. Intervention by the quilombola movement in land regularization politics

Beginning with the decimation of Palmares, and other *quilombos* throughout Brazil, and with the death of Zumbi, the greatest of quilombo leaders, the Brazilian state began to believe that these communities didn't exist anymore. In other words, it stifled a model of society that threatened the "agrarian and racial order" of the

country. Such communities were relegated to their own devices, and kept their territories by means of resistance. Through organization and political struggle, they achieved Article 68 of the ADCT of the 1988 Federal Constitution.

At the time, several *quilombola* leaders, with the support of the urban black movement, were already holding debates and mobilizations for the creation of a constitutional article that guaranteed the right to land. It was common to hear the constitutional convention deputies ask questions like: "Are there still *quilombos* in Brazil?" thus demonstrating the invisibility suffered by these communities in the eyes of Brazilian society.

Under the provisions of the Transitional Constitutional Dispostions Act (ADCT), a marathon of items is established to regulate the article in question, resulting in Decree 3.912/2001 for the purpose of: *Regulating dispositions relative to the administrative process for identification of the remainders of quilombo communities, as well as for the recognition, definition, demarcation, titling and recording of land occupied thereby.* The legal and political challenging of this right intensified and, on May 13, 2002, then President Fernando Henrique Cardoso vetoed the decree.

Currently, the main challenge is to reconstruct legislation aimed at regulating Article 68. In 2003, President Luis Inácio Lula da Silva created an inter-ministry group to draft a new decree for regulating Article 68. This process resulted in Decree 4887/2003, which establishes procedures for regularization of *quilombola* territories.

It is not my intention to analyze the decree, but rather look at the process of mobilization by the *quilombola* movement around constructing a new legal framework that could result in the effective guarantee of their territories. The hope of *quilombola* communities was revived by the idea that no other government would assume the commitment to recognize *quilombola* rights. The government began a process of opening land regularization cases with the National Institute of Agrarian Reform (INCRA). An Office for Land Regularization for *quilombos* was created at INCRA, as well as technical committees at regional headquarters. There are currently 1,248[4] certified communities. These actions intensified conflicts with large landowners, transnational corporations, and local legislators.

The municipality of São Mateus, in Espírito Santo, is headquarters for the Movement for Peace in the Countryside (MPC), the purpose of which is the defense of private property and combating *quilombola* rights. The Democratic Party (formerly the Liberal Front Party) filed ADIN 3239 with the Federal Supreme Court alleging the unconstitutionality of Decree 4887/2003. In the House and the Senate, several initiatives were formulated for annulment of the decree, headed by Federal Deputy Valdir Collato – DEM/SC, aimed at overthrowing the decree and defending private property.

[4] *Source: Institutional site www.palmares.gov.br*

Innumerable media reports have discussed the subject, many of them questioning *quilombola* identity, such as in the case of the Rede Globo TV. The debate gets stronger around two questions: the principle of self-definition and territorial limits.

We must delve more deeply into a new element being used by *quilombola* communities to guarantee their rights, based on compliance with ILO Convention 169[5]. Pressures from large landowners and multinational companies, such as Aracruz Celulose, made the Brazilian State backtrack on its actions in defense of *quilombola rights*. With the allegation of making the process more secure, the government proposed alteration of the INCRA Normative Instruction for *quilombo* land ownership regularization. Taking refuge in ILO Convention 169, the *quilombola* movement inaugurated a new tool for dealing with the Brazilian government: the right to consultation.

The struggles are not over. In every state, conflicts are heating up. The strengthening of agribusiness in Brazil has increased this conflict. There is a great dispute for land occupied by traditional communities. These territories have suffered invasion by mining interests, and mono-cropping of eucalyptus, soy and sugarcane. In the past twenty years of the Brazilian Constitution, the small number of *quilombola* lands that have been titled does not show any commitment on the part of the State to preserve these communities.

Land ownership of *quilombola* territories is still a challenge for the Brazilian State. First, it's important to deconstruct the myth of racial democracy, which is behind several impediments to land regularization of *quilombola* territories. The second challenge is democratization of access to land, because the guarantee of human rights in Brazil requires the deconstruction of latifundio by putting an end on monopoly over land.

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[5] *International Labor Organization (ILO) Convention that establishes the rights of indigenous and tribal peoples. It includes the right to self-definition of ethnic groups.*

There is sufficient water in the world for all living beings, but availability differs from place to place, region to region, country to country. The cycle of water is quite complex and its natural manner of storage is so as well. There are few regions on the planet where water is both good and sufficiently stored underground. One of the difficult regions is the semi-arid area of Brazil. The problem is not so much rainfall (average of 700 mm per year) but natural storage. The 70% crystalline subsoil does not allow formation of underground water tables of any scope. Add to this the intensity of the sun in this region, causing the greater part of water retained on the surface to evaporate. Therefore, in the semi-arid region, nature alone cannot resolve the problem of the people's access to water. Human intervention is necessary. This is what is happening by means of social technologies, such as cisterns for drinking and production purposes, which collect rain water during the rainy seasons.

The Battle for Water as a Right

Roberto Malvezzi[1]

1 – Introduction

First and foremost it is necessary to clarify that water has not been explicitly recognized at any international convention as a human right. The theme was aired in the "Universal Declaration on the Rights of Children" and in UN General Commentary 15: "The human right to water is indispensable for life with human dignity. It is a prerequisite for the realization of other human rights."[2] What does exist is a growing struggle for it to be so recognized. This struggle was not brought up before because it seemed absurd that humanity might reach that extent of unlikelihood, i.e., to have to

[1] *Member of the National Coordinating Office of the Pastoral Land Commission and a member of FIAN Brasil (Face It Act Now)*

[2] *General Commentary No. 15 on application of Articles 11 and 12 of the International Pact on Economic, Social and Cultural Rights – UN Nov 02*

transform into law something so obvious and natural. For Aristotelian-Thomistic philosophy, natural rights precede positive rights and no positive law can annul a natural right. Natural needs are considered natural rights. Therefore, to drink water, a primary need, is an obvious natural right. Today the precarious nature and primary character of neo-liberal doctrine has reached the level that establishes a break between natural right and positive right. In short, if before water was a natural right, now it has been reduced to a necessity. This implies that governments are not subject to international sanctions for violating a person's right to water. It is absurd, an aberration, but it is a fact. We have reached the limits of unlikeliness and today must struggle so that water is recognized as a human right. The UN itself admits the challenge and states:

"At international organizations it has been frequently upheld that recognition of water as a human right could be the most important measure to overcome the challenge of supplying persons that which is the most basic element of life."[3]

We are faced, therefore, with one more struggle which is unnecessary in the light of common sense, but essential in the face of irrationality, or "human dementia" as spoken of by Leonardo Boff. According to Boff, the human being is not only *sapiens sapiens,* but also "*demens demens*." The UN report continues:

"A recurring theme in the debate over water as a human right has been the recognition that it is a prior condition for all our human rights. It has been said that, without equitable access to the minimum essential amount of clean water, it is not possible to realize other recognized rights, such as the right to living conditions suitable for health and well-being, as well as civil and political rights. In a general way, it is thought that the language of the Universal Declaration on Human Rights, that was the keystone of later statements, did not attempt to be exhaustive, but only to include those elements indispensable for an adequate standard of living. The fact of water having been excluded as an explicit right was owing more to its nature; like air, it was considered so fundamental that its explicit inclusion was considered unnecessary."[4]

Those that thought up the declaration on human rights, even the Human Economic, Social, Cultural and Environmental Rights (DHESCA) groups that came afterward, never would have imagined that one day it would be necessary to declare water to be a human right, so absurd was the thought. But this is a new day. Humanity has to fight for the human right to water in the face of the chaos experienced throughout a large part of the world by the poorest populations, and before the growing greediness of water transnational corporations in commodifying it. In the face of this, the UN states:

[3] *Published by the Department of Information of the United Nations – DIP/2293 F – February 2003*
[4] *Idem*

"Many policy makers and those responsible for sensibilization activities asked that the right to water be recognized as a human right, considering that this would be an essential step to guarantee that measures be taken on behalf of those who suffer from lack of access to a supply of clean water. They understand that the legal obligation arising out of the recognition of the right to water would motivate governments, of both developing and developed countries, to introduce effective changes in internal and aid policies and in the allotment of resources and would furnish citizen groups with a firmer base from which to put pressure on government. In addition, some critics of the growing privatization of water supply services throughout the world think that the right to water would strengthen their arguments in favor of reinforcing the role of the public sector – instead of involving business – the motivation of which is profit – in satisfying this crucial necessity."[5]

2 – Marketing Water – A Human Rights Violation

Except for water corporations and governments ruled by mercantilist logic regarding this natural asset, few would disagree that water must be recognized as a fundamental right of a human being. However, this recognition is full of restrictions that can, in practice, annul its effective recognition and implementation. Water security has three levels that, although dispersed in the literature on the subject, are grouped here.

1. Level 1 of water security is biological. This assumes that a human being basically has 4 liters of water per day for consumption. This is where water becomes a food. It must be constant and of good quality, for without it a person dies in a few hours.

This level of security must be debated because, all around the world, nearly 1.2 billion persons do not have secure access to this biological minimum. What we are playing with is people's lives. It is not surprising that one of the principal causes of death of millions of children on Earth, aside from innumerable illnesses, is related to consumption of water that is not potable.

2. Level 2 is domestic security. Agenda XXI regarding water puts this level at about 40 liters of water per person per day. This is what a person needs, with sufficient efficiency in its use, for all daily personal uses, including personal hygiene. Some time back this level was said by the World Health Organization to be 50 liters per day. However, there are more recent proposals that the minimum level should be 25 liters/day. As today everything is a minimum – like salaries, the State, food – now they want to lower the minimum for domestic security. I believe the standards set at 40 or 50 liters are quite reliable.

[5] *Idem*

3. Level 3 is economic security. Here the standards for calculation change, because it assumes use for all levels, including food production, industrial use, etc. This assumes an availability of 1,000 m^3 per year per person. This individualized average needs to be well understood because it is, in truth, the social use of water, whether by a community or by a country. This standard comes from the UN. However, the World Bank, based on the consumption of North American society, puts this minimum level at 1,700 m^3 per person/year. Most scholars reject this standard because it is abusive and unsustainable, based on consumption by the most consumer-oriented society on the planet. It is clear that, using this standard, there are few countries in the world that have water security for economic purposes.

4. Let us now comment in greater depth on each of these levels. The struggle at the biological level is fundamental because billions of persons on the planet depend on this minimum to maintain their health and even their lives. It is not so easy to satisfy this primary need, which we propose to be a right, for so many people at such diverse locations on the planet. There is sufficient water in the world for all living beings, but availability differs from place to place, region to region, country to country. The cycle of water is quite complex and its natural manner of storage is so as well. There are few regions on the planet where water is both good and sufficiently stored underground. One of the difficult regions is the semi-arid area of Brazil. The problem is not so much rainfall (average of 700 mm per year) but natural storage. The 70% crystalline subsoil does not allow formation of underground water tables of any scope. Add to this the intensity of the sun in this region, causing the greater part of water retained on the surface to evaporate. Therefore, in the semi-arid region, nature alone cannot resolve the problem of the people's access to water. Human intervention is necessary. This is what is happening by means of social technologies, such as cisterns for drinking and production purposes, which collect rain water during the rainy seasons.

Lately there has been criticism of these reservoirs, for being small, for not relieving the people of their poverty. The cisterns alone really can't relieve any part of the poverty suffered. But they guarantee the biological water security that in turn is basically what guarantees survival. There is an opinion that when there is no food, food becomes the basic problem. When hunger is satisfied, another 50 problems arise for those who have something to eat (Bruno, Parmentier. Estadão. 21/10/07). We can use the same thinking for water, perhaps with greater seriousness. When there is no water, water becomes the fundamental problem. When there is water, hundreds of other problems arise regarding water treatment. However, to guarantee drinking water is to solve the fundamental problem of staying alive. This is the fundamental motive behind the struggle for recognizing water as a fundamental right of human beings.

5. Level 2, domestic use, complements Level 1. Drinking water is not enough every day. We need water to cook our food, for personal hygiene, to wash household utensils, etc. Evidently all these needs cannot be covered with only four liters of water per day per person. Thus we arrive at the calculation given in Agenda XXI on Water – 40 liters of water per day per person. The World Health Organization sets this at 50 liters, a similar figure. This includes water for ingestion. What is certain is that up to 80 liters is a comfortable and responsible consumption level. Anything above that constitutes being a predator. There are regions in Brazil, such as in the mansions in Brasilia, where water consumption reaches 900 liters per capita/day.

The domestic level must also be guaranteed as a human right. For example, the rural communities of the Northeast that are seeing to guaranteeing their biological use with cisterns, need other sources to guarantee domestic use. Normally this water has been of poor quality. Some people, seeing the benefits of the cistern water, use this drinking water for hygiene purposes, which compromises the ability of the water to outlast the periods in which it normally doesn't rain in that region.

Moreover, although it may seem obvious that the domestic level needs to be considered a human right, there is resistance, principally by water supply companies and by governments that fear seeing their water policies through the looking glass of human rights. The Brazilian government itself has made an effort to see that water not be recognized as a human right, although within the government there are those that defend recognition of the domestic level also being recognized as a human right. Behind this debate is the fear of compromising the water companies' rates and of actions by poor families against excessive rates or the impossibility of cutting off access if poor families truly cannot pay those rates.

6. Level 3 – all uses, including economic – is today the big water question in the world. In the face of the "water crisis" there is a tendency worldwide to perceive it as "a human right and patrimony of all living beings." However, there is another trend toward seeing the "water crisis" as an opportunity for big business. There is not much different here than the commerce building around carbon credits. In this regard, the scarcity of water determines its economic worth. Many forget that the Dublin Principles speak about the vital (biological), social and environmental worth of water. Water transnationals adopt that part of the concept that appeals to them, i.e., its economic worth. This is practically the only thing cited by anyone wanting to turn water into a commodity. We are stuck with the UN standard of 1,000 m^3 per person per year. This would be the availability that a group of people (community, country, region) would have for all uses.

It happens that there are countries that are very poor in water, with a low availability per capita, but that are well developed economically. The most often cited case is that

of Israel. There are other countries and many regions on the planet with a great abundance of water that still don't have a creditable IDH (Human Development Index). This is the case of the northern region of Brazil. Furthermore, according to Professor João Abner da Costa, it must be noted that certain regions receive water in other ways – so-called built-in water – better than virtual water because consumption is real – such as in the form of electrical energy. The São Francisco River utilizes approximately 1,500 m^3 to generate the energy that supplies all the Northeastern states. Ceará, for example, receives 30% of this energy. Thus, it receives as energy 30% of the water utilized for energy generation from the São Francisco River, which corresponds to about 450 m^3 per second. There are equations that need to be studied in greater detail to see where these figures aid in understanding reality and where they hide reality.

Today, about 70% of the fresh water used on the planet is destined for agriculture, 20% for industry, and 20% for human consumption. These are world averages that can differ greatly at the local level. Today nearly 42% of food is produced by irrigation. However, of the 260 million irrigated hectares on the planet, nearly 80 million are salinized. Thus, irrigated agriculture consumes a great deal of water and deteriorates soils. In truth, it is large companies that have taken possession of large volumes of water for their economic uses, to the detriment of the needs of people and animals as well as of environmental sustainability. In view of this the question arises: can the economic use of water be considered a human right?

There are pertinent questions on this subject. For example, why shouldn't a water bottler producer pay for the economic use it makes of water? Why shouldn't a company that uses water to irrigate sugarcane for ethanol production pay for the use of that water?

There is no easy answer. The Bolivian government has declared water as a human right. At the World Water Forum in Mexico in March 2006, Cuba, Venezuela and Uruguay upheld the Bolivian thesis against the other countries of the world, including Brazil.

This debate is to all purposes never held in Brazil. The economic use of water is being decided at reservoir committees, normally controlled by the government and large-scale users, to the detriment of small farmers and poorer populations. Thus it becomes difficult to sustain the view of water as a human right.

However, for small farmers who need water to produce food and sustain their families, it seems very pertinent that water used for production be once again considered as a human right. Therefore, to defend water as a fundamental right of human beings, we need to be aware of the various levels of water security, and discern when water has a vital and social purpose, and when it has a commercial purpose.

3 – The position of the Brazilian Government with regard to Human Rights legislation and instruments

Brazil has a tradition of being a signatory to all international conventions on human rights. However, surprisingly, the current Brazilian government is taking a position contrary to Brazilian traditions in the field of rights, not only refusing, but militating against, signing documents promoting international recognition of "the human right to water." This position has reappeared at national and international events. One has to ask why the Brazilian government, run by a president from a worker-based party, who claims to "have experienced thirst during his childhood and carried water cans on his head," would take this type of political attitude.

The first international event where Brazil took a public stance against recognizing water as a human right was at World Water Forum III in Kyoto in 2003. However, this public stance reflected the spirit of Brazilian Water Resources Law 9.433/97, in which the guiding principles for water use established in Dublin are only partially incorporated. The law speaks of "a finite, vulnerable resource, with economic value, that demands participatory management," but doesn't talk about its biological (life), social (development) and environmental value.[6]

More recently, during the World Water Forum in Mexico in March of 2006, Brazil once again failed to support water as a human right. However, one new thing did happen. The presence of the Bolivian Minister of Water, with the explicit position of defending water as a human right, divided the countries on this question. Bolivia refused to sign the final document precisely because it did not defend this thesis. The Minister was publicly supported by Venezuela, Uruguay and Cuba. Within the meanderings of the Conference, the Bolivians tried to network with Brazil, but the Brazilian government held to its position.

Although it may not have been explicitly stated, Brazil's fear is economic in nature, which causes even greater concern. As the owner of the world's largest fresh water reserves – 13.8% of the fresh surface water available on the planet – Brazil fears that explicit recognition of water as a human right will interfere with national sovereignty regarding water. It is a genuine fear, if this is indeed the motive. International human rights conventions evidently have to power to make reports and denounce member states that violate these rights, but they do not have the power to interfere in their politics. Specifically, Brazil would be subject to national and international reporting on possible recognition of water as a human right, but its water policies would not be dependent on any such agreement. In truth, it is much more logical to assume pressure from water transnationals and multilateral entities that do not wish to be subordinate to international human rights policies, such as exemplified by the U.S. posture on the

[6] *Don Hinrichsen, Bryant Robey, and Ushma D. Upadhyaya: RUMO A UMA REVOLUÇÃO AZULE (English title: Toward a Blue Revolution). http://usinfo.state.gov/journals/itgic/0399/ijgp/ij039911.htm*

question of the human right to food. Finally, recognition of this right would oblige nation states to at least guarantee the domestic water security of their citizens. Water companies would be subject to the same obligation, under penalty of being denounced and tried as violators of human rights.

Brazil has a long overdue debt to its poorest population with regard to access to water. By way of example, it is estimated that 90% of the population in the Brazilian semi-arid region do not have access to sufficient water even for biological security, i.e., 2.5 liters of water per person per day for drinking. The Ministry of Cities states that approximately 45 million Brazilians do not have this right guaranteed in their daily lives. Even when the needed quantity is available, it is rarely potable water. However, domestic water security is even less guaranteed, i.e., 40 liters per person per day of good quality water, regularly supplied. It is much more common to see long canals constructed to supply irrigated agriculture for products to be exported than construction of water mains for the supply of the population in the Brazilian semi-arid region. This is one of the issues dividing those that defend and those that oppose diversion of the São Francisco River.

We cannot take away from the Brazilian government the credit for two initiatives to secure water access for our poorest people. The first involves financial support by the government of the One Million Cisterns project of the Network of the Semi-Arid Region (AS). Construction of these 16,000 liter reservoirs guarantees biological water security for a family of six persons for eight months. Better yet, it offers good quality potable water, regularly supplied, even if it doesn't achieve the domestic water security standard. Therefore, the Brazilian government, even with this initiative from civil society, is a long way from meeting the basic supply level guaranteed as a human right.

Another initiative, stalled in Congress, is bill 5296/05 aimed at establishing an environmental sanitation policy in Brazil. Drafted under Minister Olívio Dutra, it proposes a twenty-year investment in sanitation, to the tune of seven or eight billion Reais per year. However, a dispute between states and municipalities over ownership of the sanitation services has bogged down approval of this bill.

Such points show that Brazil is far from establishing a policy that really aims at guaranteeing water as a human right, both in legal principles and in practice. This is a struggle that the defenders of human rights in Brazil will still have to nurture to the fullest in order to one day achieve this objective. Below we expound on some important aspects of social mobilization in this direction.

4 – The struggle by civil society for water as a human right

A vast network of non-governmental organizations has joined forces throughout the world, principally based on the World Social Forum, to defend water as a public

asset and as a fundamental right of human beings. These are human rights organizations, sanitation workers, social pastoral offices, peasant movements, etc. They react to concrete facts where water was privatized and its price hiked exorbitantly, depriving poor people of access to water. In several locations around the world the people took to the streets to protest against usurpation of an asset that was public and universal and that suddenly became private and restricted access to those with sufficient purchasing power. In a declaration at the 2005 World Social Forum, RED VIDA stated:

"1. The right to water is part of the Right to Life, first and fundamental in the Universal Declaration of Human Rights.

2. Any political-institutional system that limits or permits exclusion of persons from access to potable water violates Human Rights.

3. The best way to guarantee the human right to water comes from the commitment assumed publicly by governments to guarantee this right. In this regard, nation states, through national, regional and municipal governments, are responsible for guaranteeing access to good quality water under terms of equality, as well as for preserving this resource from contamination."[7]

In this regard there is general agreement among the sectors from the political world, churches and civil society in understanding the future of water and its recognition as a human right. This concept is opposed to the mercantilist and private enterprise understanding of the water corporations, multilateral financial institutions, and governments that favor the interests of large capital, and wish to abdicate their duty to guarantee a regular supply of a reasonable quantity of quality water to their citizens.

UNIVERSAL DECLARATION ON THE RIGHTS TO WATER

The present Universal Declaration on the Rights to Water was proclaimed with the purpose of affecting all individuals, all peoples and all nations, so that everyone, keeping this Declaration constantly in mind, makes an effort through education and instruction to develop respect for the rights and obligations stated and assumes, by means of progressive measures at the national and international levels, its recognition and effective application.

1. Water is part of the planet's patrimony. Each continent, people, nation, region, city is fully responsible in view of everyone.

2. Water is the life blood of our planet. It is an essential condition for life for all vegetable, animal or human life. Without it we would not have any atmosphere, climate, vegetation, culture or agriculture.

3. Water must be handled rationally and with care and frugality.

[7] *REDE VIDA, "Carta de Princípios RED VIDA (RED VIDA Letter of Principles)", 2005 World Social Forum, Porto Alegre.*

4. The equilibrium and future of our planet depend on the preservation of water and its cycles. These must remain intact and functioning normally in order to guarantee the continuance of life on earth. This equilibrium depends in particular on the preservation of the seas and oceans, where the cycles begin.

5. Water is not a free gift from nature, it has an economic value: it must be known that at times it is rare and costly and shortages may be suffered in any region of the world.

6. Water must not be subject to waste disposal, polluted or poisoned. In general terms, its use must be made with awareness and discernment so that currently available reserves do not run out or have their quality compromised.

7. Water usage implies respect for the law. Its protection constitutes a legal obligation for every person or society that uses it. This matter should not be ignored by individuals or by the State.

8. Water management requires a balance between the imperatives for its protection and needs of an economic, sanitary and social order.

9. Water management planning must take into account solidarity and consensus due to water's inequitable distribution across the Earth.

II – HUMAN RIGHTS IN URBAN AREAS

Shantytown in Rio Grande do Norte

Human dignity prevails over any other consideration, before any other principle, any incompatibility, before any convenience.

Access to Justice and Amnesty

Kenarik Boujikian Felippe[1]

One of the characteristics of the period of the Brazilian military dictatorship is that access to justice was curtailed in various ways and by various means. One of the mechanisms for restricting this human right was established by AI-5, which, as Minister Evandro Lins e Silva said, caused the Federal Supreme Court to lose its political power, and its attribution was lost as one of the three independent Powers. It could no longer judge anything with regard to the actions of the Executive Branch; could no longer judge the actions of the President; could no longer judge on habeas corpus in benefit of political prisoners.

The dictatorship made use of punitive power, as occurred in the rest of Latin America, in two ways: utilizing the then-current, but parallel, penal law system, as it invoked a state of siege, of emergency, of war; and with application of extraordinary laws, such as those of national security and underground penal law, which led to elimination and death, executions, torture, kidnapping, violation of domiciles, sexual crimes, among others, without any legal process whatsoever. The two forms were routinely applied concomitantly, and Brazil lived under the domain of an underground penal law.

In these circumstances, the Brazilian people lost their right to justice with regard to the crimes against humanity practiced during the military regime, which persists into the present day, as serious violations continue outside the framework of Justice.

The inhuman acts carried out by agents of the State, persons or groups of persons who acted with the authorization, support or consent of the State, cannot benefit from political amnesty, under the terms of Law No. 6,683/79, as what they did must be

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classified as crimes against humanity and, thus considered, are indefeasible, which requires of the Judicial bodies, especially the Public Prosecutor, the requisite criminal investigation and prosecution.

The idea of a crime against humanity is uncertain in Brazil, but the important lessons of Kant allow us to better understand the concept, as one of the two aspects of the Kantian categorical imperative determines: "to act according to a maxim that treats humanity, both the self and the other, always as an end and not as a means." "Act in such a way that you treat humanity, whether in your own person or in the person of any other, always at the same time as an end and never merely as a means to an end."

The categorical imperative represents an action imperative in itself, without any relation to any scope, as objectively necessary and of an unconditional nature. This action tells us: "Proceed only in accordance with that maxim, by virtue of which you can at the same time wish for it to be a universal law." Act only according to that maxim whereby you can at the same time will that it should become a universal law."

In a country in which human dignity is the guiding principle, what occurred in the recent past cannot be ignored. In this regard, "political" reasons and those of convenience, which are effectively at the bottom of the "interpretations" that wish to "erase" such facts, give way before Kant's lesson: "When a thing has a price, anything else can be put in its place as the equivalent; but when a thing is priceless, and therefore does not have an equivalent, then it has worth."

It is thus with the human being: there is no price and no equivalence, only dignity/worth and, thus should [the human being] be treated. One cannot here break with the universality and generality anticipated in the categorical imperative. A person has value only for himself and does not have an equivalency. No moral law can allow a human being to be treated with outrageous violence against his physical and psychic integrity. Any other approach to the question breaks with the essence of the human condition, which is unacceptable for the stage of civilization that we aspire to.

The value of Justice, thus explained by Kant, which is the perfect foundation for the modern concept of human rights, consists of the impossibility of ignoring the supreme value of Humanity. Human dignity cannot be negotiated and prevails over any other consideration, before any other principle, any incompatibility, before any convenience.

The massacre of the Armenians and the beginning of the last century, gave rise to the first actions for punishment of crimes against humanity, because it pointed out the need for an international response to crimes of this dimension, which reality intensified after the barbaric events of the Second World War.

The definition of crimes against humanity appears for the first time in the "Nuremberg Principles," in 1950, approved by the UN General Assembly, although already referenced in earlier documents. The principles confirm the prohibition of crimes against humanity, with the status of an imperative right.

Before adoption of the Statutes of the International Penal Courts for the former Yugoslavia, Rwanda, and the Rome Statute, Conventions were adopted that expressly qualified various acts as crimes against humanity, that were not admissible of amnesty laws and self-amnesty, of a material or procedural nature, as established at the Interamerican Court on Human Rights, in various judgments, as incompatible with the inalienable rights under international law on human rights.

The Interamerican Court considered that a crime against humanity occurs when: i) an act is committed which is inhuman in nature and character; ii) as part of a systematic or generalized attack; iii) in response to a policy that has not necessarily been adopted formally; iv) directed against a civil population. The Court added that, based on the Nuremberg Court Statute, the notion of a crime against the community was structured, dealing with a prohibition of *ius cogens*.

Brazil has an international obligation to investigate and punish those responsible for such crimes from the moment that it ratified the pertinent treaties on human rights, due to the nature of *ius cogens*. The obligation arises from Brazil's agreed-to responsibility to investigate and punish such crimes as a *ius cogens* obligation and the obligation for there being current infractions of the International Covenant on Civil and Political Rights and the American Convention on Human Rights.

Faced with the inertia of the State in investigating the crimes and applying the respective punishment, it must be recognized that Brazil broke with the three orders of obligations: compliance with conventional obligations, *ius cogens*, and obligations for current infractions (such as the cases of forced disappearances).

The "Nuremberg Principles" establish, among other things, that international rule can impose duties on individuals, without intermediation of internal law and that international responsibility prevails, even if there are no internal legal standards that determine and punish international crimes.

Imprescriptibility is established in the international standard that determines the punishment of the perpetrators of crimes, in accordance with international law, and the Convention on the Imprescriptibility of War Crimes and Crimes Against Humanity reaffirmed the nature of imprescriptibility in order to assure its universal application, faced with the need to overcome impunity for international crimes, which leads to denial of justice, as it is an important element for prevention, protection of the rights of man and fundamental liberties, which will promote international security and peace.

Non-compliance with an order based on the principle of imprescriptibility means that the State has broken its international commitments, as it has failed to comply with an agreed upon obligation, as decided by the Interamerican Court on Human Rights.

Within this framework, it is important to establish that the Amnesty Law, No. 6,683/79, was created out of the struggle for Brazilian democracy. The movement demanding the end of the military dictatorship and redemocratization of Brazil had Amnesty as an obligatory step. The law is an act recognizing the injustice of the military dictatorship, and for the State to recognize the social and political dispute at the time. However, the Amnesty Law can only be applied to those who supposedly committed political and related crimes.

There is no legal concept of a political crime, but the Federal Supreme Court already had occasion to decide upon the scope of political crime in various judgments, adopting a mixed meaning. The elements furnished by penal doctrine, security laws and jurisprudence allow us to state that a political crime is characterized by the legal assets as well as by motivation. It is committed against the established order, with a clear ideological purpose. A political crime seeks to break the organic unity of the State, disturbing national security. Two elements are necessary for the crime to be classified as political: identification of the damage to a determined asset, consisting of national security, in its various aspects, as established in the standards of national security, and the subjective element of the crime to be judged by the motivation, the objectives of the perpetrator.

Thus, those that perpetrate inhuman crimes, by way of being defenders of the then-established order, cannot have, under any hypothesis, committed a political crime, whether due to the absence of any damage to a legal asset that the political crime seeks to safeguard, or due to the motivation of the authors of these crimes not being consistent with the subjective element of a crime of this nature.

As stated above, Law No. 6,683/97 establishes that the beneficiaries of amnesty are people who supposedly committed political crimes, characterized by its affecting national security, the established order, the political regime that sustain the Brazilian State. A political crime affects specific assets, which excludes crimes committed by agents of the State, since they do not damage legal assets or the constituted order. Given the characteristics of criminal connection, it is impossible for there to be a connection between political crimes committed by opponents of the military dictatorship and the crimes committed by the agents of repression against them.

In order for access to Justice to be implemented, with respect to the referenced inhuman acts, the Federal Section of the Order of Attorneys of Brazil proposed the Action of Discovery of Fundamental Precept (ADPF 153) and petitioned the Federal Supreme Court to interpret Section 1 of Article 1 of Law No. 6,683/79 in accordance

with the Constitution, so as to declare that amnesty granted for political or related crimes does not extend to common crimes committed by the agents of repression against political opponents during the military regime.

The Judges for Democracy Association asked to be included in the action, as *amicus curiae,* in November 2008, as being essential cause for consolidation of democracy in the country. The action was sent to the Attorney General of the Republic on 03/02/2009, and as of October 2009 the respective opinion was expected.

On this subject, I point out the decision of the Federal Supreme Court with reference to the request for extradition of Manuel Cordeiro Piacentini, by the Argentine Republic and Uruguay. This major of the Uruguayan army took part in Operation Condor, a terrorist, secret and multinational organization to hunt political adversaries of the military regimes in Brazil, Argentina, Chile, Uruguay, Paraguay, and Bolivia in the 1970s and 1980s, and would have participated in various military actions that resulted in various crimes.

The considerable importance of this judgment is that the Federal Supreme Court put aside the possibility of the crime imputed to the extraditee, under the aegis of Operation Condor being political in nature. But the Supreme Court still had not analyzed the scope of the Brazilian Amnesty Law, which will only happen when judgment is made on ADPF No. 153, indispensable for the doors of Justice to be effectively open, fixing the concrete extension of political amnesty and establishing that the crimes committed by the military government's agents of repression did not have their liability for prosecution extinguished by the Amnesty Law.

The legacy of violence left by the military dictatorship is unusual, and until today has not been overcome, since Justice has not been achieved. The State restricted itself, basically, to acting in the sphere of economic reparation. With regard to the cycle of violence of the dictatorship, the advances are almost nonexistent. In São Paulo, Public Prosecutors Marlon Alberto Weichert and Eugênia Augusta Gonzaga Fávero sent four representations demanding criminal action relative to the death of Vlaldimir Herzog, (Trial No. 2008.61.81.0134343-2), Luis José da Cunho (Trial No. 2008.61.81.012372-1), and the disappearance of Horacio Domingo Campiglia, Monica Susana Pinus de Binstock, and Lorenzo Ismael Vinñas, with reference to the activities of Operation Condor. The first two investigative proceedings were shelved.

In Brazil, during the military dictatorship, the use of repression, by means of penal legal standards and also by illegal repressive force led to the generalized practice of forced disappearances, homicides, executions, torture, sexual violence, and other crimes that are still under the protection of impunity since, although not granted amnesty, neither were they investigated.

In the area of access to penal justice, checking the facts is indispensable for achieving identification of the perpetrators and their respective accountability. It is not possible to build a true democratic state of law by forgetting truth and justice. To allow amnesty for those who practice inhuman acts is unacceptable, ethically and legally, as it wounds human dignity.

The traditional model of public security defend and perpetuate, in various cities such as Rio de Janeiro, a "war on drugs." The violent conflict between warring factions-the police and the drug traffickers-occurs in public spaces. The central objective of both groups is to eliminate "enemy soldiers," without any hope of victory for either side. People who live in marginal communities are considered part of the "enemy army's civilian population." This provokes injuries and deaths, as do humiliations and other diverse forms of violence that slum residents suffer in their everyday lives. Such effects are considered "collateral damage" and thought to be unavoidable.

Public Security, Violence and Criminality in Rio de Janeiro

Jailson de Souza e Silva[1]

In this article, we use a ten-year period as a reference to analyze public security and violence, particularly police violence. Such practices are by no means limited to the time period alluded to above. Yet this approach helps us think through the particular changes that have occurred in this brief time span. It also helps us to consider such recent modifications in light of the necessary long-term horizon required for the implantation, development and maturation of different public policies that could have great impact and reach.

There are two central aspects of the processes of public security that have taken place in the last decade. The first is a maintaining of the dominant strategy within the field of public security that understands public security as combating crime, and not as the defense of fundamental citizenship rights. Similarly, there is the prevailing notion that public security is an attribute of the state's police forces, and not a right that demands participation from society in order to be guaranteed.

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The second aspect is the construction of public security proposals that are "citizen-oriented." In these proposals, repressive measures are associated with crime prevention policies. They affirm the importance of social investment, by means of integrated actions between federal level agents and community members in defining the priorities in the field of public security. These proposals emphasize community policing, to the detriment of an ostensibly impersonal form of policing that is outside of social control.

The traditional model of public security defend and perpetuate, in various cities such as Rio de Janeiro, a "war on drugs." The violent conflict between warring factions-the police and the drug traffickers-occurs in public spaces. The central objective of both groups is to eliminate "enemy soldiers," without any hope of victory for either side. People who live in marginal communities are considered part of the "enemy army's civilian population." This provokes injuries and deaths, as do humiliations and other diverse forms of violence that slum residents suffer in their everyday lives. Such effects are considered "collateral damage" and thought to be unavoidable. [2]

The security forces' failure in terms of concrete results has been completely ignored. After decades of armed conflict, there has been an increase in lethal violence, in overall criminality, police and judicial corruption, and the growth of overall territorial control of public spaces by armed criminal groups (Grupos Criminosos Armados-GCAs), particularly with respect to militias.[3] The statistics that best reveal the strategic failure to combat organized crime are the prices of cocaine and marijuana, the most sold drugs in Rio de Janeiro. There has not been any substantial change in the prices of these drugs during the period of increased repression of drug traffickers in the city's slums. Increased repression has not affected the predominant logic.

A central element accounting for the prevalence of the dominant strategy in the public security field derives from the "war on drugs." More important is the naturalization of this war. Violent attacks on drug trafficking groups in slums are the unquestioned tactic. Naturalization takes place because social groups do not consider alternative ways of handling drug dealing and use other then by repression, which generates perverse effects.

The priority of violently combating drug dealers in public spaces is (re)produced by the media and is considered unavoidable by the vast majority of the population. The groups that are committed to alternative policies, oriented around the defense of a

[2] The success of films such as City of God, Carandiru, Elite Squad, and in 2009, Salve Geral (variously translated as Time of Fear and General Message) demonstrate how the Brazilian cultural industry has managed to capture this social imagery and create cinematic products which impact the public.

[3] Such groups are dedicated to the control of public spaces in the urban periphery and in the slums of Rio de Janeiro. They are directed and formed, in the majority, by professionals from the security forces (i.e. policemen, fireman and prison guards). From their control of these spaces, the militias regulate, in an authoritarian fashion, the social order found there and develop a variety of economic practices. Their territorial expansion was excessive during the government of Rosinha Garotinho, based on top-level ties with state-level security forces and local commanders of the Military and Civilian Police.

form of public security based on the defense of human rights, face great difficulties in developing strategies that reach wide sectors of the population.

However, changes in how the issue is framed, even though occurring slowly, have taken place in various parts of the country. A relevant factor has been the change at the federal level, particularly with respect to Lula's government, in the sense of assuming public security responsibilities. Timidly, while not ideally, the National Secretariat of Public Security (A Secretaria Nacional de Segurança Pública (SENASP)) began to work from a different perspective with respect to criminality. The former policy simply handed out resources to state level security agents to buy weapons and vehicles. Now, some innovative public security policies are being pursued. This has resulted in the National Program of Public Security (Programa Nacional de Segurança Pública com Cidadania - PRONASCI).

Another innovative aspect is the investment of a number of large cities in policies of violence prevention. Such practices have had an impact on violent crime and broadened responsibility for public security. Such initiatives, even though limited, have shown that it is possible to construct public security policies oriented around new priorities that integrate diverse social and state actors. Such initiatives have resulted in the reduction of some forms of violence, and also highlighted the potential for civil society to play an important role in this process. These practices break the monolithic strategic of the "war on drugs." Civil society actors dedicated to the construction of alternative social technologies and methodologies contribute in the elaboration of public policies oriented around human rights.

In traditional public security strategy, the roles were clearly defined: it was up to the security forces to determine and carry out their own security policy – in reality to devise their ineffective strategy with respect to dealing with organized crime – while civil society groups questioned their practices and strategies. Their questioning came in the form of denouncing the violation of fundamental rights, and in claiming that the police ought to act other ways. As a result, certain groups assumed an anti-state posture, or specifically, anti-police. They rejected any kind of collaboration.

Recently, practices have become more complex. It is no longer possible to simply reproduce old arguments and behaviors. The reason is that in the first place, we have witnessed the development of a group of well-qualified professionals within the ranks of the police. These professionals critique the current model of public security and seek dialogue with civil society and academics in order to construct new policy possibilities in the area of security. We see an incipient development of a new police culture. This new culture takes into account special intelligence in combating organized crime, and valorizes new forms of policing that incorporate the population.

Another factor that has occurred in the last ten years is the emergence of a series of academic and civil society groups that are developing appropriate practices in the field of public security. These groups are betting that practices such as improving police qualification requirements could result in real improvements. Such examples are investing in training in the field of human rights.

According to Eliana Souza Silva, executive director of the Networks for the Development of Maré (Redes de Desenvolvimento da Maré), it's important to research the sentiment of many citizens.

"The work that I am finishing now has as its point of departure the feeling of indignation, such as the death of a helpless child because of police violence. The assassination of Renan defined the fieldwork I did on public security. After a long trajectory of activism in the slum, dedicated to searching for new ways for development of the residents' rights, it was impossible to escape this option." (Silva, 2009: 434)

Eliana went beyond police violence to various particular acts:

"More than simply describing the activities of the security professionals and their meanings, I attempted to situate them in a global framework of socio-political relations that orient the constructions of the state, and of Brazilian society, with regard to the slum residents of Rio de Janeiro." (Silva, 2009; 435).

After four years of research, Eliana produced a work that is profoundly original, based on interviews with 544 Maré residents, 30 of which were drug traffickers and 10 were local militia. She also interviewed 69 policemen, 10% from the 22nd Battalion of the Military Police, the only battalion that is installed within a slum.

This researcher-resident-activist reached various conclusions. Amongst them, I will highlight the following:

"Concerning the police, contact with them was the richest experience for me. Through this contact, I had the opportunity to recognize their humanity, their reasons by which they justify their practices. This did not entail my agreeing with their actions or with adopting some kind of ethical relativity. What became clear was that it is possible to construct strategies that could improve the work conditions of the police, enhance their professional standing, and show their importance to society, including within the slum. Actions like these can, as I am now certain, completely change the way that they operate. In order to achieve this, the state must assume a different posture; it is indispensable that there must be another baseline for assessing public security, rooted in new, stable, long-term objectives. Accordingly it will be possible to gain for society global solutions that involve integrated and intersectorial policies with the participation of diverse social actors. The police forces and state agencies will not arrive to these

conclusions on their own accord; it is thus up to movements and social organizations, as well as universities and other institutions, to place on the agenda the need to attune public entities to the need to work on the design and implementation of public security strategies that overcome the current failures" (Silva, 2009; 437).

This position, developed from pain, activism and theoretical reflection, shows the paths with which I agree completely and hope to follow in upcoming years. In the construction of new paths in the field of public security, with new dialogues and theoretical references, new answers can be constructed for the problems that produce so much pain.

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Brazil has the fourth highest number of prisoners of all countries. It also has the second highest number of prisoners per 100,000 inhabitants in South America, losing out only to Chile. In January of 2009, the São Paulo Secretary of Penitentiary Administration announced the construction of 44 new prison units. If we add confined prisoners with those that are completing an alternative form of punishment we have approximately one million people being punished. This number does not include those who have conditional freedom, which raises this number to much more than one million people. These numbers seem to contradict the idea that the expansion of alternative sentences should lower overpopulation in prisons. They lead us to believe that alternative sentences tend to increase penal control, now impinging on behavior not previously affected by the punitive power of the State.

The Punitive System: 10 years lost

José de Jesus Filho[1]

The prison system, which, in the middle of the 19th century, reached its height as the main punitive solution (Ignatieff, 1987), and crossed into the 20th century with hardly any questioning about its effectiveness, reached a critical point in the past few years in terms of its legitimacy.

The certainties that lasted at least until the end of the 1960s began to fall apart in the last few decades, reaching a critical point in this past decade. The loss of the prison system's legitimacy as an institution capable of offering a secure response to criminality came from empirical data as well as from the critical theory elaborated primarily by those favoring the abolition of the penal justice system.

Empirically, mass incarceration has never been able to significantly reduce criminality. In fact, research has shown that a 10% increase in the rate of incarceration correlates to

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no more than 2 to 4% in the rate of reduction of criminality, and this is only for certain sectors of crime. Drug trafficking crimes, for example, are not affected by the imprisonment of its perpetrators since there is an excess of people interested in getting into such a lucrative market (Spelman, 2000).

Critical theory began specifically with the abolitionists (Passeti, 1997) and critical criminology (Zafforoni, 2003), by demonstrating that the supposed functions of punishment, like re-socialization, incapacitation to commit crime, and general intimidation cannot be proven and such positive functions do not exercise any role other than that of legitimizing the exercise of punitive power over the most vulnerable groups in society.

Belief in the rehabilitative ideals that prevailed in the penal solution is tending to disappear. Such ideals have been widely criticized by conservatives as well as progressives. Conservatives, upon abandoning the rehabilitative ideal, began to invest in incarceration as retribution and in the prison as a means of incapacitation to commit crime. Mass imprisonment came to be the prime objective of the controlling authorities.

Progressives, upon recognizing that the punitive system was selective, affecting only the most vulnerable groups in society, began to attack the [concept of] prison and the punitive system itself. They believed it represented nothing more than a form of institutional violence against the poorest sectors of society, and was a way to legitimize punitive power. In this way, the rehabilitative ideal would be, in truth, a way to ideologically justify prison. In other words, prison is a bad thing in and of itself. It does not in itself offer anything positive and its supposed rehabilitative function would only work as an ideological justification for its use—a means to legitimize prison.

Some, in order to save the punitive system, have begun to look for means to justify it with the use of alternatives to prison for infractions of lower social risk. Prison would be used for the incorrigible criminals and alternative punishment, such as community service or financial penalties, would be used for those who did not commit violent crimes.

Undoubtedly there is no uniformity in the answers to apparently simple questions such as: Why do we have prisons? Do prisons work? What is the purpose of prisons? Do prisons have any positive value?

Recently approved penal laws and bills now moving through the National Congress call attention to the confusion of punitive lines in which we are involved: the proposal amending the constitution to create penal police, or prison police, which would include investigative powers; the drug law which, as a pretext to reduce imprisonment of the most vulnerable, has in fact lengthened the sentencing of same; electronic monitoring of prisoners that, to the happiness of private companies, has just been approved; the Maria da Penha law, which still lacks evaluation of its long-term positive impacts. The

bill on chemically castrating sex offenders represents the punitive and populist desperation we have come to.

The crime control market, which before was satisfied acting in the primary criminalization arena, has now shown itself willing to advance into the sphere of tertiary criminalization. Private administration of prisons proliferates throughout the country. The so-called PPPs, for construction of prison facilities, are on the agenda in the speeches made by politicians and builders when speaking about the penitentiary system.

Since penitentiary administration is under state responsibility, lobbyists act together with local administration and legislators by means of underground agreements, reducing civil society's field of action in monitoring these contracts. More peripheral and less economically active states are the main target of this market. Once they are strengthened by the creation of markets, even if they are small, their chances of reaching large centers, like São Paulo and Rio, are more promising.

The confusion caused by the penal justice system is expressed by David Garland: "Nobody is clear about what it is to be radical or reactionary. Private prisons, considerations about impacts on the victim, legislation about notification of the community, orientation about application of the penal code, electronic monitoring, rendering services to the community, quality of life "politics", restorative justice—these and tens of other developments have led us to an unfamiliar territory where ideological lines are far from being clear and where old suppositions are untrustworthy guides (Garland, 2001)."

Alternative punishment, which for 10 years seemed to be the panacea for the incarceration problem, only came to increase the punitive web and was never able to gain social acceptance. Society only sees it as impunity.

In fact, the evolution of alternative punishment in Brazil, which has more than 500,000 people under this regime 10 years after the law was approved, and that the government presents—at least implicitly—as positive, signifies an expansion in penal control of people who were not affected before. The law that increased the "roll" of alternative punishment and increased the maximum time for this punishment to four years, aimed at replacing deprivation of liberty with alternative punishment, dates from 1998.

The basic idea behind the creation of alternative punishment would be to reduce the number of people sentenced to prison, thus decreasing the number of prisoners by presenting a less coercive and more humane punishment.

We did not find information at the Ministry of Justice about prison population numbers from 1998 but at the end of 1997 there were 170,207 prisoners and the rate per 100,000 inhabitants was 108.6.

Ten years after the law was published, the number of people completing alternative punishments reached and then surpassed the number of prisoners. In June 2008 the

prison population was 440,000 with a rate of 227 per 100,000 inhabitants. In other words, the growth of the prison population doubled in relation to the general population.

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In January of 2009, the São Paulo Secretary of Penitentiary Administration announced the construction of 44 new prison units. If we add confined prisoners with those that are completing an alternative form of punishment we have approximately one million people being punished.

This number does not include those who have conditional freedom, which raises this number to much more than one million people. These numbers seem to contradict the idea that the expansion of alternative sentences should lower overpopulation in prisons. They lead us to believe that alternative sentences tend to increase penal control, now impinging on behavior not previously affected by the punitive power of the State.

One of the reasons that seems to explain this phenomenon is the fact that alternative sentences or those that restrict rights are being applied cumulatively with those that deprive liberty. In effect, there are cases in which a prisoner is only offered alternative punishment in court, meaning after having already spent months or years in prison awaiting a definitive prison sentence.

Another important element to be considered is the fact that prisons, even before the advent of the alternative punishment law, were primarily filled with people who robbed and participated in narcotics trafficking. These two crimes together accounted for more than 50% of the prison population in 1997.

Those condemned for robbery did not benefit from the alternative punishment law because their sentences were longer than four years and robbery is considered a violent crime. Meanwhile, crimes today that receive alternative penalties are crimes of low harmfulness and were possibly not addressed by state punitive power before 1998.

In the international arena, Latin America and the United States have led the movement for national security as a detriment to the respect for human rights.

The United Nations Minimum Rules for the Treatment of Inmates are about to be revised, and issues such as electronic monitoring, use of cameras, and audience via video-conference will surely be included. These, which have already been approved in Brazil, will surely mean an increase in the invisibility of inmates.

The United Nations Congress for the Prevention of Crime, which will take place in 2010 in Salvador, will be a clear demonstration of state pressure to declare a definitive war against drugs and "terrorism". The cost of this policy will be the suspension of fundamental human rights. The consequences seem clear: strengthening

of the police state, weakening of the rule of law, and mass imprisonment and criminalization of the poor.

In telling the story of the punitive system over the past ten years, one cannot disregard the changes caused by communication technology. For example, the cell phone was in the hands of few and still seemed, for some, like a marvel of modernity and, for others, an aberration of modern times. In a few years the dissemination of its use led to a lack of control such that it sparked a mega-rebellion in 70 prisons at the same time and ground a metropolis of 18 million people to a halt.

The attacks of May 2006 generated a series of reactions in various social sectors. In the National Congress, bills to toughen the penal system reappeared with proposals that included the adoption of more severe prison regimes, associated with the suppression of rights of the so-called "dangerous criminals," and even the reduction of the minimum age for criminal charges. The police, with injured egos, took to the streets, unprepared and irrational, and assassinated those suspected of belonging to the PCC. The press then propagated the identification of the PCC as a criminal organization, which led the common person on the street, all the way to academics, to use this confusing terminology to refer to those responsible for the attacks in May without thinking about what organized crime really is, much less about what this organization of prisoners known as the PCC was about.

As a result, everyone shared the same opinion: there was a criminal organization putting the security and life of the population at risk and it was necessary to react in a way to relieve society of this public enemy, even if some rights had to be sacrificed.

In this past year, the sensationalism of members of the three branches of government seems not to have any limits, as one can see in the National Council of Justice. It stopped performing its institutional function in order to create ill-fated task forces, which turned the whole structure of the judicial branch upside down. While we have highlighted the chaos, this does not mean that there are not noble attempts to overcome the current state of affairs.

While the State of São Paulo announces the construction of new prisons, the State of New York has demonstrated that it is possible to reduce both the size of the prison population and violent crime at once. In fact, between 1997 and 2007, New York reduced its prison population by 15% with a significant impact on the public budget and, in the same time, reduced violent crime by 40%, demonstrating that prison is not the best solution for reducing violence.

In Argentina, civil society in the province of Buenos Aires presented an interesting proposal to limit the size of the prison population, looking for formulas to balance the number of incoming and outgoing prisoners. The government, on the other hand, has

promoted a project to limit the prison population by the budget endowment designated for the prison system.

In the rural areas of São Paulo some judges and prosecutors have looked into removing from prison those for whom prison does nothing but worsen their situation. Pregnant and breastfeeding women and seriously ill people can answer their cases in freedom or wait in the hospital or at home until their health improves before they return to fulfill their sentences.

In some countries, restorative justice projects, the flexibility of rules regarding early release, decriminalization of simple drug possession, and decriminalization of the theft of things of little value have shown that methods unrelated to prisons do not put society at risk and contribute to the construction of a free society.

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The housing problem is real and may be one of the most pressing issues in Brazil. But rather than attacking the root of the problem, the "My House, My Life" program lets itself be guided by the needs of the strategies of power, corporate interests, and dominant ideologies. The package has raised housing to a "national problem" of the first order, but defined it according to the principles of the market (or to that portion of the market represented by the real estate sector) and of power – specifically, the machine of electoral politics.

How the Lula Government claims to solve the housing problem

Pedro Fiori Arantes[1] and Mariana Fix[2]

The housing package "My House, My Life", launched in April 2009 with the goal of constructing a million homes, has been presented as one of the Lula administration's key responses to the global economic crisis – by stimulating the creation of jobs by business and investment in the construction sector – as well as a social program on a grand scale. It allocates a volume of subsidies running to R$ 34 billion *reais* (US$19 billion dollars, the equivalent of three years of the annual budget for the Bolsa-Família),[3] to assist families earning between zero and 10 times the minimum wage. Because of this, the Lula Government has claimed that the project, although focused on job creation and anti-recession spending, is redistributive in character, in contrast to the more single-mindedly pro-capitalist policies that likely would have been put forward by the opposition.

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[2] *Mariana Fix is an architect and urban planner trained at FAU-USP, with a masters in sociology from USP's faculty of philosophy, literature, and social sciences, and doctoral candidate in the Instituto de Economia at the University of Campinas (UNICAMP).*

[3] *The Bolsa-Família is a welfare program providing financial aid to poor families on condition that their children attend school and receive vaccinations.*

The federal government's declared objective is to direct the real estate sector to meet the housing needs of low-income families, which the market does not serve. That is, it is to force the housing market, limited in Brazil to a minority of the population, to finally include groups that until now have had no way of entering the housing market by regular, formal means. While these "C and D classes" have been discovered as a potential market by nearly every industry in recent years, in an extremely unequal society with low incomes, there remain limits on the expansion of complex and expensive markets such as housing and urban real estate. With the housing package and the new standard of financing that it claims to launch, the government intends, if not to eliminate these limits, at least to expand them through the use of public and semi-public funds, so that the enormous demand for housing could finally be met by formal means.

The subsidy allotted to the poorest families is high (between 60% and 90% of the value of the property), and eviction due to non-payment is unlikely. For higher earners, who must apply for conventional mortgages (which are nevertheless also subsidized), the government has established a "guarantee fund" to cover late payments, thereby reinforcing the system. The package is generous to families accepted into the program, while contractors are promised, as the head of a construction company recently declared, "provision *for all*, big or small." For the homeless, however, housing assistance is allocated for *only 14%* of the latent housing demand, a national housing deficit of at least 7.2 million homes.

We intend to present a preliminary discussion of the package, beginning with the information, methods and standard instructions that have been released to date (July 2009), by means of a number of questions to help us to understand it.

1) What model of housing provision is favored by the package?

97% of the public subsidy made available in the housing package, including funds from the federal government and the FGTS,[4] underwrites supply and production by private enterprise, while only 3% supports non-profit organizations (such as co-operatives and social movements) in the self-managed production of urban and rural housing. The package makes no allowance for state promotion (projects and bids led by public agencies), which must continue to pursue resources through existing channels, with fewer funds, many more requests, and restrictions on access and mortgage levels.

We can already see in this investment profile a clear bias towards the private sector as the driving force behind the process. The cited justification is the difficulty faced by public (particularly municipal) authorities in the management of resources, which has induced the federal government to opt for market-led production. In other words, instead

[4] *Translator's note: the Fundo de Garantia de Tempo de Serviço (FGTS) is a severance pay fund set aside by employers and released to workers upon dismissal.*

of attempting to facilitate public administration by removing these obstacles, it makes the assumption that efficiency can only be achieved by private industry.

For the lowest income bracket – between zero and three times the minimum wage per household (up to R$ 1,394 *reais*, or US$760 dollars) – production by contractors operates by private bid to public authorities, with costs ranging from R$ 41,000 *reais* (US$22,000 dollars) to R$ 52,000 *reais* (US$28,000 dollars) per unit, depending on the city and the kind of home (houses or apartments). The bidding process requires that the contractor choose the site and the project, get approval from the relevant agencies and sell in full what it produces to the Caixa Econômica Federal, free from the expenses of real estate incorporation and marketing, without the risk of buyers defaulting or units lying vacant. Access to units is determined by census lists produced by local councils. In the immediately higher bands, between three and 10 times the minimum wage per household, known as the "popular market", 600,000 units are planned. In this case, sales are carried out directly by businesses. Potential buyers go to real estate agencies or to the increasingly popular "home fairs" sponsored by the Caixa.

2) Will the package even benefit the families who most need it?

Historically, housing subsidy in Brazil is infamous for being abused by the middle classes and private agents, rather than giving sufficient aid to the working families that really need it. Although this pattern may repeat in this case, let's consider the political and electoral advantage to the government of assisting those at the base of the pyramid.

On the one hand, the government wants the subsidy to encourage the real estate market to serve low-income groups, who offer greater political dividends; while the market wants to take advantage of the package to subsidize production for the middle and lower-middle classes, who offer the greatest financial gains. In both cases, the market depends on the government to expand supply, rather than on the private system of credit, as in wealthy countries. In other words, it is not a truly free market, because it feeds on public funds. On the other hand, the government depends on the market to implement social policy, undermining public agencies, ministries of housing, and Cohabs (Companhia de Habitação Popular). Setting aside ideological questions, this hampers the State's ability to direct its own policy.

The service profile prescribed by the package reveals the enormous power of the real estate sector to direct funds to the customers that interest them most. The urban housing deficit for families in the higher band (earning between three and 10 times the minimum wage) corresponds to only 15.2% of the total, but these families will receive 60% of the units and 53% of the public subsidies. This band will be able to reduce its deficit by 70%, satisfying the real estate market, which considers it more profitable.

Meanwhile, 82.5% of the urban housing deficit is borne by the lowest income bracket, but these families will receive only 35% of the units in the package, corresponding to 8% of the band's total deficit. In the case of the rural deficit, the percentage is deplorable: only 3% of the total. Such data illustrate that the assistance to those most in need will be overwhelmingly restricted to marketing, and to stimulating the popular imagination.

3) How does the package encourage the ideal of home ownership?

The housing package and its immense marketing operation takes up once more the ideal of "casa própria" ("one's own home") that was strategically circulated in Brazil during the military regime, as compensation for low salaries and the loss of political rights. The promise of "casa própria," as a symbol of so-called social "integration," can, as we saw, be used as a sop to distract the worker from emerging as a state actor driving social change (meaning both its direction and its extent). Either by coercion, co-option, or assent, the promise of "casa própria" can support a policy of appeasement of social movements and of conformism in relation to the structures of power.

Evidently we are not merely discussing an ideological phenomenon. "Casa própria" is perceived and experienced by the working classes as a symbol of family survival, particularly in times of crisis and growing instability in the workplace. It has the effect of dampening protest over imperfections in the welfare system and the lack of industrialization with full employment. For politicians, this marketing operation is vital to increase electoral dividends; so, given the disparity between the promise and the actual predicted level of support, a large part of the package could be said to take place on the plane of the imagination. And for the real estate industry, it is also an excellent deal.

4) Does the package favor the decommodification of housing, like social welfare policy?

The amount of money set aside from public funds or from the FGTS to subsidize this operation suggests that we're looking at a massive program to distribute income and "indirect salary." The subsidy rate is high for the lowest income band, which must pay 10% of their income or a minimum of R$ 50 *reais* (US $27 dollars) per month, with zero interest, for a period of 10 years. Although the aim of income distribution is positive, we must take note of the intermediaries in the process and their *qualitative* effect; because we're not talking about a direct transfer, as in the case of the Bolsa-Família card. While the worker receives a house of *only* 32m^2 (344 sq. ft.) of usable area (the model proposed by the Caixa), probably in the extreme outskirts, the contractor's earnings on this home-commodity can total as much as R$ 48,000 *reais* (US$19,000 dollars), or R$ 1,400 *reais* (US$555 dollars) per m^2.

As laid out in the package, the subsidy is using homeless families as a "social alibi" for the State to apportion public wealth, a fraction of the capital, towards supporting the real estate industry (contractors, property developers, and landowners). In fact, the "social seal" of public housing is being used to justify funneling subsidies into the property sector.

5) Does the package support architectural standards and environmental sustainability in social housing?

Even without rejecting the model of the commodity-form, the package could enforce minimal standards on social housing projects, thereby obtaining electoral dividends from building more functional, attractive, and sustainable homes. That would mean consulting universities and professional associations, evaluating national and international standards**,** supporting environmental sustainability benchmarks, and so on. In terms of production, large-scale prefabrication initiatives could be carried out, taking advantage of the knowledge already accumulated, for example, by public building projects (such as those coordinated by João Figueiras Lima).

But the package is not concerned with the quality of the product and its environmental impact, except for what is set down by the industry itself and its pitiful quality guidelines. These standards in fact do little more than guarantee a building's viability as merchandise, confirming the priority of exchange value over use value. It is well established that the material and symbolic conditions of large tower blocks promote a sense of alienation among the working class, together with poor quality of life and public services. Any inhabitant or visitor to housing projects of this kind will recognize in them the atmosphere of a prison.

6) Does the package favor democratic governance of cities and the strengthening of municipal administrations?

The projects are not formulated by the government or by public demand, contractors do not bid for them, they do not form part of a municipal strategy of urban development, and they may even obstruct such strategies. They are conceived strictly as merchandise, making a profit for their investors. Municipalities play no active role in the process except, at most, by enforcing local bylaws. This undermines municipal management structures, projects and land use controls.

It is even likely that city governments could be pressured to alter legislation governing land use, plot ratios, and even the city limits, to make projects economically viable. Cohabs and housing secretaries can expect to become a rubber stamp, handing land over for private exploitation.

7) Does the package favor urban reform and the social function of property?

In its anxiety to facilitate the greatest number of projects, local government will fall hostage to a predatory and fragmented form of urban expansion. The concentration of land ownership will remain unbroken and access will be governed by sales at market value (or even above). The model of market-driven, unregulated housing provision will always be directed to maximize profits by means of speculative projects.

There is nothing in the package, for example, to encourage the occupation of vacant buildings which are already built (which total 6 million units, or 83% of the deficit), fulfilling the properties' social function. The existence of this immense stock of empty buildings is more of a burden on society, because they are mostly tower blocks, provided with the complete urban infrastructure, many of them delinquent on their taxes.

There is no doubt that the package will stimulate the rise of land prices, further encouraging real estate speculation, geographic segregation and the private funneling of public funds. Socially-guided housing policies will thus grow more and more impractical, unless the government stops directing subsidies to landowners.

8) Why does the package disregard recent institutional advances in urban policy in Brazil?

The package was assembled by the Civil House and the Treasury Department, in direct consultation with the real estate and construction sectors, neglecting many institutional advances in the area of urban development, as well as discussion with society at large. The Ministry for Cities (although given to the Progressive Party in 2005) was sidelined throughout the program's formulation, the National Housing Plan was ignored almost entirely, the City Statute was not taken as a defining element of investments, the Council for Cities was not even consulted, the National Fund for Social Housing (FNHIS), as well as its Council, were dismissed. The package still requires a monitoring committee formed exclusively from members of the government.

9) Is the housing package a sensible way to combat recession?

It was presented as an anti-cyclical policy with social objectives – a justification which ultimately exempts its proponents from demonstrating its impact on the supply chain. Although the construction industry has a positive effect on the economy, in the case of social housing, which is effectively reduced to the base of the materials (cement, brick, sand, wood, etc.), its leverage is much weaker.

From the point of view of the *quality* of jobs generated, there is no doubt that, because of its low organic composition (few machines), civil construction is a massive

employer. But what's the *quality* of this work? The package makes no requirements with respect to onsite working conditions (infamously hazardous and full of risks) and neither has it given greater power to legislation or inspection agencies. Furthermore, negotiation between government and construction companies to define the smallest viable cost per unit will inevitably result in an increase in the exploitation of workers.

The slow pace of housing investment and a preoccupation with profitability prevent the package from operating as a Keynesian anti-cyclical program. One option would have been to create work teams managed directly by local governments, disassociating their work from real estate profiteering. We must remember that the government is still holding a primary surplus (albeit a reduced one), and deficit spending is the foundation of anti-cyclical policy.

If we accept that the package is not the best recessionary measure, then "growth" and the "emergency" should not override more *substantive* issues. More appropriate criteria – urban, social, and environmental – should take precedence in evaluating and implementing housing policy.

10) Does the package support social movements?

Urban social movements and their supporters have been fighting for massive social housing subsidies for decades. As we have seen, large subsidies are now controlled by the construction industry rather than going to support social organizations. But from the perspective of working families, the fight for *quantities* (of resources, housing units, or assisted families) cannot be separated from *qualities* – that is, from the relations of production, the conception of projects, jobsite working conditions, the use-value of buildings, the resulting urban landscape, and finally, from the qualities of the whole social process involved.

The resources made available by the package for non-profit entities – that is, social organizations – correspond to only 3% of the total subsidy and are restricted to the lowest income bracket, exactly the group of least interest to private contractors. The limited funds could also create conflict between movements, which would soon have to fight each other for resources instead of questioning the disproportionately high subsidies set aside for contractors, as well as the general form of the package.

11) Does the package guarantee equality between rural and urban areas in housing assistance?

The package earmarks R$ 500 million *reais* (US$270 million dollars) for the Rural Housing Program. It's a paltry sum: less than 2% of the program's total subsidy and with a limit of R$ 10,600 *reais* (US$5,716 dollars) per housing unit, which is clearly

unfeasible for a decent building. From the quantitative point of view, it plans 50,000 housing units, which corresponds to only 2.5% of the rural housing deficit of 1.75 million units. Such resources cannot be used in land reform settlements, which count exclusively on Incra funds. In effect, due to the logistical challenges, the distance between sites, and the poor chances for economies of scale, rural housing simply didn't arouse the contractors' interest.

The undermining of rural housing policy illustrates the disparity between housing policy and the realities of regional development throughout the country. Therefore, it encourages the rural exodus and the growth of the precarious urban peripheries. The proportion of individual subsidies earmarked for urban housing is around nine times greater than the Incra subsidy. As well as illustrating the growing division between standards of citizenship in the country and the city, this weakens agrarian reform, encourages migration, and exacerbates the growing unsustainability of our cities.

Final Considerations

The housing problem is real and may be one of the most pressing issues in Brazil. But rather than attacking the root of the problem, the "My House, My Life" program lets itself be guided by the needs of the strategies of power, corporate interests, and dominant ideologies. The package has raised housing to a "national problem" of the first order, but defined it according to the principles of the market (or to the portion of the market represented by the real estate sector) and of power – specifically, the machine of electoral politics.

Sensible programs of urban reform had already been formulated in Brazil in the past 50 years, but despite the efforts of progressive social movements, little has proved effective. The impossibility of urban reform in Brazil can only be understood in a wider context, what Florestan Fernandes called the "impossibility of a program of reforms" in our country. In the case of the cities, however, a socialist program of urban development has never been formulated in Brazil, given the slow pace, idealism, or pragmatism of discussions in this area. It is vital, however, that the forces of the Left come together to formulate such a program; because without a clear idea of what we're doing and what we're fighting for, we will absorb new defeats and suffer more failures.

In certain Brazilian contexts, the risk of a young black man being murdered is five times greater than that for a young white man (Waiselfisz, 2004). It is impossible to not see racism as a "modulator" of such violent practices. We have only to perceive the structural violence of data such as that from the "Report on Human Development – Brazil – 2005 – Racism, Poverty and Violence (Moreira, 2005). There we see that, in spite of the growth of income in recent decades, the percentage of poor blacks never fell below 64%. Although they represent 44.7% of the total population, blacks represent 70% of the 10% poorest, and no more than 16% of the 10% richest. The data on deaths point to the continuance of historical repressive practices against this population (Flauzina, 2008).

Rights of Children and Adolescents: Extermination, Racism, and the Old Silence

Maria Helena Zamora
Claudia Canarim

For Carlos André, age 12, crushed by
a tractor in Maceió while he slept in the garbage,
tired of looking for food in the refuse.

An unjust society puts youth, above all, at a disadvantage, as well as the most vulnerable groups. The right to life is threatened within the context of structural violence to which are added criminal violence and the repressive forces of the State. In Brazil, one of the most promising economies, and also one of the most inegalitarian countries in the world, these statements meet with tragic confirmation. Here it is dangerous to be male, to be between 14 and 24 years of age, to be black and a resident of low income areas. Such a conclusion can be drawn from reading the various reports on research on homicide rates for young men. The impressive thing about these data is that they come

from various studies, institutions, and organizations, all of whom reach the same profile of this "target-youth." We will here touch upon only three of these studies.

"Map of Violence 2006: The Youth of Brazil," by Jacobo Waiselfisz (2006), reaffirms that there is an increase in homicidal violence, exclusively explained by the increase in murders of youth. Homicides principally victimize men (93%), and blacks, the rate for whom is 73.1% greater than that for whites in relation to the total population, and reaches 85.3% with respect to young men. Homicides prevail in the range of 20 to 24 years of age, and in the range of 14 to 16 – adolescence – which has increased the most in recent years.

Based on this last fact, Waiselfisz produced the "Map of Violence of Brazilian Municipalities" (2008) covering the decade between 1996 and 2006. In 2006, 73.3% of the homicides that occurred in the nation, occurred in the 556 municipalities with the highest homicide rates for the total population, although representing only 10% of the total number of municipalities, These are large scale municipalities, however all states have at least one municipality in the group. In the case of Amapá, Pernambuco, Rio de Janeiro and Roraima, 40% or more of their municipalities are part of this critical group. Therefore, the presence of such deaths in small and supposedly "quiet" cities, is a reality.

In 2009 "Homicide Index for Adolescence" was released (LAV/UERJ and others, 2009), covering 267 Brazilian municipalities. It shows there is an average of 2.03 adolescents dead due to homicide before the age of 19, for each group of 1,000 adolescents. There are cities where this number reaches almost ten deaths per thousand. The figure is quite high, given that these are deaths which should be perfectly avoidable in a non-violent society, as shown by comparative studies.

In summary, we have 13 adolescents murdered every day in Brazil, generally by firearms. Remember that we are speaking of persons between the ages of 12 and 17, according to our legal definition. However, if we add children to this group, there are 16 murdered every day. It is significant that the large majority – more than 90% — of the dead are males.

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We recognize that the facts shown are absolutely scandalous; these are numbers of deaths that many countries don't suffer in wartime and for which, moreover, we see no urgent and immediate steps being taken to resolve this intolerable situation. Nor do we see indignation against such barbarity on the part of the media, public opinion, so-called organized civil society, or on the street. We coexist with these data, with a certain resignation or even indifference: in truth, a complicit silence. Brazilian society doesn't know or want to know the true scope of these facts, unless it doesn't legitimize them, since they already feel threatened by the figure of the "dangerous minor": — i.e., black, lower class children, adolescents and youths.

This lack of mobilization in the face of a massacre of children, this tolerance in the face of the intolerable, is especially strange in a country where infancy and adolescence and all related subjects are considered an "absolute priority" in accordance with the text of the Federal Constitution. This should put them in first place amongst the concerns of all governing, legislative, and parliamentary entities. Strategies to combat the problem are still being planned, but do not have the criticality that they should.

Moreover, it is possible to find governing entities that promote and endorse lethal violence by their police in undertaking actions aimed at preventing and combating crime, including in dealing with the civil population and even using tanks in such operations. This is the case of Rio de Janeiro, for example. In such operations, with alleged "lost bullets", children and youths have been killed or wounded. Abuses of all types have been committed; residents are terrorized. And it must be said that in this type of action, everyone loses, including the police (Amnesty International, 2009).

In fact, there are dozens of legislators dedicated to drafting and proposing not bills to defend the lives of more youths, but rather proposals to lower the age for penal majority, thereby placing boys and girls sixteen years old or less in the terrible and already strongly reviled Brazilian jails. We also see that some are mobilizing to increase the length of sentences (deprivation of liberty), one of the (supposedly) socio-educational measures to reassure the citizenry with regard to adolescents in conflict with the law. This means more repression and violence in the lives of young people.

The silence regarding the death of boys and young men can also be explained by the very social and economic status of the victims and by the way these are seen in an unequal society. Black and brown victims of homicides, as referenced here, are in the majority, poor and destitute, with little or no education, and live in stigmatized areas – slums, streets, garbage dumps. These deaths go hand in hand with the formation of our barbarous "civilizing" and colonialist process, a true "enslavement esthetic," as put forth by the historian Vera Malaguti Batista (2003).

Currently, in the neo-liberal context of the loss of state security, violence, violation of rights, and criminalization appear to be a way to deal with the poorest sector of the population, always thought to be potentially dangerous. This is the leftover population, "human refuse" according to Bauman (2005), not thought to be useful, productive, or consumers within the damaging framework of contemporary globalization.

Within this true genocide of the Afro-descendant population, it little matters if these boys are involved in criminal activities or not, especially in drug trafficking, whether they study, work, or help maintain their families in some way. There are well-known concrete situations of vulnerability. But we need to stress that this view not only does not explain all the facts, but it can also lead us to attribute the cause of the death to the victim's behavior. We must understand that those affected are almost always adolescents who are already affected by the precariousness of a system supposed to guarantee their rights, that should link the areas of health, food, education, recreation, culture, job training, housing, transportation, among others.

How can we expect to guarantee life and all their rights to the youngest members of the population when, in the words of the women of a Rio slum whom we interviewed recently, "life isn't worth anything," "the danger is enormous," "every day I think that my son could die"? This is not an unreal perception. Less than a week after this conversation, a boy of fifteen from the closest slum was shot in the head while he was putting the garbage out. While the residents accuse the police of the shooting, the police categorically deny the accusations.

We believe that this gives rise to an important question. In cases of extermination, should we be content with life alone, a life reduced to the bare bones, destitute of any political dimension, with regard to young people (Agambem, 2002)? Only to be alive is not living. We recall the South African leader Steve Biko: "Either you are alive and proud, or you're dead. And when you're dead, nobody cares." Black, proud and alive – this is the fear of the elite. And it seems that this is a subject that you can't touch in Brazil, which has to be denied in order to reinforce a myth of racial equality, this ordinary perplexity, never noticed, that permits and justifies the massacre of black children, and the old silence that goes with it.

In an adult-centered society such as ours, adolescents not only still don't speak for themselves, it isn't even as though that they could and should participate in the life of the citizenry, and in all decisions that pertain to them. They are not heard, or they are condemned, and their disobedience is criminalized with regard to that which neither should we adults become accustomed. How can those who don't know their rights and whose rights don't know them make their voice heard, if not as an established identity as "adolescent"? We further note that to reduce them to

victims and to presume to think and speak for them is once again to repeat the authoritarian stance.

The very term seems to embrace a nature unto itself, which I have seen repeated in the media, by public agents and scholars. Above all, the adolescent, boy or girl, is a "creator of problems" or someone who appears to have a predilection for alcohol and drugs, with a tendency toward violence. These are attributed characteristics that come to be seen as an essence, where "qualities" and "defects" such as rebelliousness, melancholy, aggression, impulsiveness, enthusiasm, introspection…come to be considered as synonyms for being an adolescent (Coimbra, Bocco, Nascimento, 2005). We know the effects of being stigmatized. What consequences can this have in the type of society in which we live, one that not only tries to control, but also to negatively classify differences?

We recently interviewed a psychologist who works with the Courts, who said that it was part of his job to "make the children who have broken the law and who come into my care, understand that society fears and hates them; that they need to know this and to defend themselves; to formulate life strategies. That if they die, only their family is going to cry or claim them."

It is everyone's responsibility to break with this masking of reality. We must demand and propose new concrete actions, giving visibility to the bodies and voices of boys and girls, their families, and to ways of finding new solutions together with them.

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III – ECONOMIC, SOCIAL, AND CULTURAL RIGHTS

Workers under slavery conditions in Mato Grosso do Sul

The Brazilian labor market is very heterogeneous. High turnover, unemployment and low remuneration are marks of its inequality, to say nothing of the difficulty that women, youth and Afro-Brazilians have in finding new work. In addition to higher unemployment, these groups receive lower salaries and are vulnerable to the most precarious forms of employment.

The Right to Work in Brazil

Clemente Ganz Lúcio[1] and Patrícia Lino Costa[2]

Spurred by Brazil's ascending economic trajectory, the county's labor market grew in the last four years. New jobs, increases in salaries and improvements in contracts and formalization of workers' status were among the benefits of this period of growth. Even the effects of the international economic crisis on employment were not as grave as predicated and it is already possible to perceive the return of economic health and the expansion of employment in some sectors.

Nevertheless, despite the fact that growth has assuaged some of the structural problems of the labor market, it did not eliminate the large contingent of people looking for work nor did it overcome the problem of informal work relations and the high proportion of workers who have no access to the legal benefits that a formal contract

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guarantees. The turnover rate of labor has increased due to the ease of dismissing workers. There is a high proportion of *autonomous* (informal) workers who have no social protection. This is to say nothing of the difficulties confronted by thousands of black people, youth and women in simply finding a good and well-paying job.

The exaggerated profits from flexible work relations in the 1990s intensified phenomena like outsourcing, short-term contracts and the substitution of remuneration that varies with respect to profits and results. This also made possible the growth of what is called in Brazil "pejotização", the name given to contracting with workers whose status is as "legal persons", a situation which, much of the time, only reflects the will of companies not to pay labor costs, transferring this responsibility to the workers who, as legal persons, pay the costs themselves.

New questions exacerbate old problems, and place great obstacles in the way of assuring everyone the right to work. The right to work must not only ensure access to jobs, but also must guarantee the quality of work, as signified by the concept of "decent work" propagated by the International Labor Organization, which is defined as "a productive job, adequately remunerated, exercised in conditions of freedom, equality and security, without any form of discrimination, and capable of guaranteeing a dignified life for all those who live by their work."

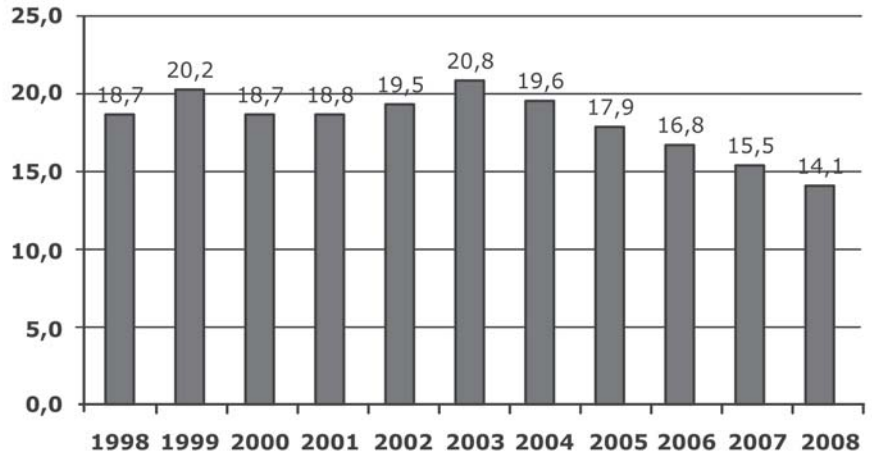
High Rates of Unemployment: The challenge of including 2.8 million people without jobs

The growth of the economy allowed for the gradual reduction of the total unemployment rate which, in 2008, sunk to a level much lower than in 1999, as illustrated by information from the Research Project on Work and Unemployment (Pesquisa de Emprego e Desemprego—PED)[3], carried out by the Inter-Union Department of Statistics and Socioeconomic Studies (Departamento Intersindical de Estatísicos e Estudos Socioecômicos—DIEESE) and the São Paulo State Foundation System for Statistical Analysis (Fundação Sistema Estadual de Análise de Dados—SEADE), in cooperation with the Ministry of Work and Employment and regional institutions. The average rate of unemployment in the regions—which in 2003 was 20.8%, the highest percentage of which was in the combined metropolitan regions—was reduced to 16.8% in 2006 and was reduced still further to 14.1% (Graph 1) in 2008. Even with this reduction, the number of unemployed in the combined metropolitan regions amounted to 2.8 million people last year. It is worth noting that, in the case of the metropolitan region of São Paulo, where unemployment totaled 1.4 million people in 2008, close to

[3] *The metropolitan regions researched by the PED were São Paulo, Porto Alegre, Belo Horizonte, Recife, Salvador and the Federal District.*

18% of these had spent more than one year without work, which is indicative of the great difficulty that a certain segment of the population has in finding new employment.

Graph 1 - Total Unemployment Rate
Metropolitan Regions and the Federal District 1999 to 2008
(In %)

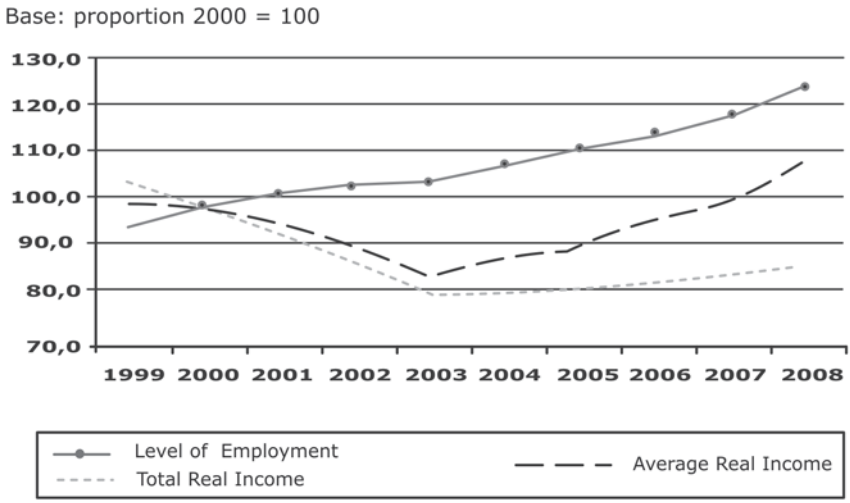


Source: DIEESE, SEADE, MTE/FAT and regional institutions. Research Project on Work and Unemployment (PED - Pesquisa de Emprego e Desemprego).
Publication: DIEESE

The PED data also show different performances depending on the level of work and the total incomes of the metropolitan regions between 1998 and 2008: while the first grew slowly but constantly since 1998, the real incomes are characterized by two distinct moments. From 1998 to 2003, the total real incomes of workers fell drastically, accompanied by low levels of investment and growth of the Gross Domestic Product. Beginning in 2004, total income grew and almost recuperated the levels of 1998, pushed up primarily by the expansion of employment and by the formalization of jobs. In this period the GDP increased, but investment remained at practically the same rate as in the previous period, which can be explained by idle labor capacity (Graph 2).

Starting in 2004, average real income of workers accompanied the tendency of an increase in total income, but at a much smaller rate, remaining a long way from the level at the beginning of the analyzed period. This fact makes it clear that total income grew as a function of the level of work rather than of the average income of workers.

Graph 2 - Report on the Levels of Employment, Real Average Income and Total Real Income of Workers Metropolitan Regions and the Federal District 1998-2008



Source: DIEESE, SEADE, MTE/FAT and regional institutions. PED.
Publication: DIEESE

Increased Turnover: The mark of employer flexibility in work relations

A significant segment of the Brazilian labor force remains in the same job only temporarily. High worker turnover is a characteristic of the flexibility empoyers have vis-à-vis workers in the labor market in the country, as much from the point of view of allocation as from that of remuneration of the labor force.

A worker who spends but a short time in a job has little chance to develop new skills. As a result, some employers prefer to fire a worker and hire another rather than invest in those who already work for the company.

Data from General Register of Hiring and Dismissal (Cadastro Geral de Admitidos e Desligados – Caged) made available by the Ministry of Work and Employment showed that between 1998 and 2009 (January to July), the volume of new employment was always very close to the volume of dismissals, indicating a high turnover in the work force. For example, between January and July of 2009, there were 9.3 million persons hired and 8.8 million dismissed. The gap between hiring and dismissal was, however, positive—437 thousand jobs.

Table 1 - Employment Movement
Brasil - 1998 to 2009

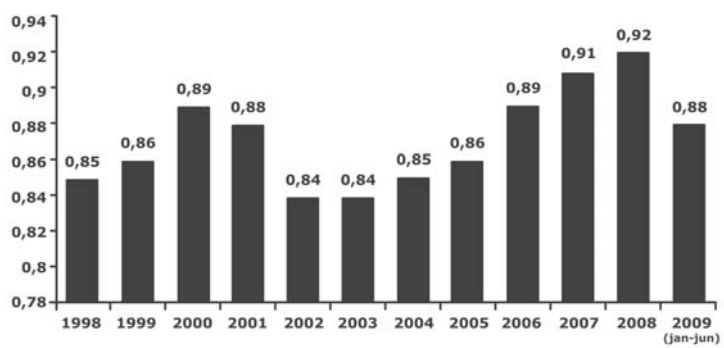
YEAR	#HIRED	#DIMISSED	DIFFERENCE
1998	8.067.389	8.649.134	-581.745
1999	8.181.425	8.377.426	-196.001
2000	9.668.132	9.010.536	657.596
2001	10.351.643	9.760.564	591.079
2002	9.812.379	9.049.965	762.414
2003	9.809.343	9.163.910	645.433
2004	11.296.496	9.773.220	1.523.276
2005	12.179.001	10.92.020	1.253.981
2006	12.831.149	11.602.463	1.228.686
2007	14.341.289	12.723.897	1.617.392
2008	16.659.331	15.207.127	1.452.204
2009 (jan-jun)	9.323.166	8.885.258	437.908

Source: MTE, CAGED - Publication: DIEESE
Obs.: For 2009, only the period of January to July was considered.

This turnover has also had a negative impact on incomes. Generally, the average salary of those hired is less than those fired, which shows that there is a decrease in the cost of production for employers due to the ease of dismissing workers.

During times in which the level of economic activity has expanded, there is an improved relation between the salary of the hired and the fired, as can be seen in 2000 (0.89%) and between 2004 and 2008 (moving from 0.84% to 0.92%, respectively). The fragility of the labor market due to the economic crisis aggravated this relationship in 2009, reducing the relation between the average salary of those hired and those fired.

Graph 3 - Development of the Relation between average salary of those hired and those fired Brazil 1998 to 2009 (In %)



Source: MTE, CAGED - Publication: DIEESE
Obs.: 2009 only until June

Outsourcing: A new way to make employment unreliable and precarious

In the last two decades there has been a significant increase in outsourcing in Brazil. Economic openness has increased competition and obliged companies to reduce costs. Above all, the recession diminished the level of economic activity, increasing the necessity of cutting costs.

Outsourcing is a management strategy characterized by the transfer of a service or production to other companies or external entities/institutions by means of signing contracts. Generally, activities that are not part of the core business are those transferred, always with the objective of reducing costs. They seek, in this way, to transform "fixed" costs into "variable" ones, and to simplify the productive and administrative process.

Nonetheless, the process can have two independent and yet not mutually exclusive aspects. It leads, first, to a partial or total deactivation of the productive sectors, or, again, the company passes from "producing" to "purchasing;" and/or it leads to the contracting of third-party companies which allocate workers to the client company.

Outsourcing tends to be associated with the strategy called "focusing": a company begins to concentrate its activities on those that distinguish it in the face of competition and exposes it to the largest number of consumers.

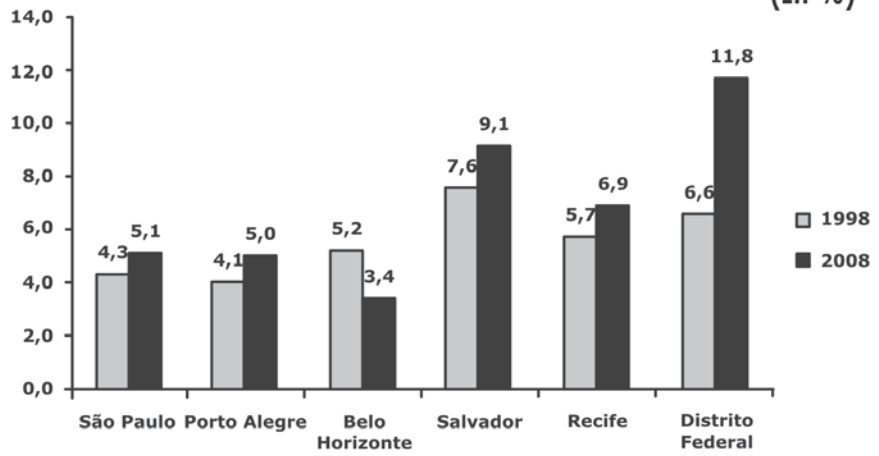
In Brazil, the sectors most vulnerable to outsourcing are cleaning, security, call centers, administrative support (human and management resources), maintenance, transport, food and information technology.

However, this practice has also made working conditions more precarious, causing a reduction in both salaries and benefits, an increase in informal labor, the lengthening of the working day, a reduction in the total number of jobs, an increase in professional illness, and an increase in work-place accidents, among others. And, what is more, as a means to make work relations more flexible, once a contracting firm ceases to have economic costs it no longer must pay for hiring, firing, training and social benefits. Furthermore, outsourcing complicates union activity and the collective protection of work.

Data from the PED indicate that the total of outsourced workers in the private sector has grown between 1998 and 2008 in all metropolitan regions and the Federal District except Belo Horizonte, where the percentage declined from 5.2% to 3.4% (Graph 4).

Graph 4 - Proportion of Outsourced Workers to the Total of Jobs Created by Firms in the Metropolitan Region and the Federal District 1998 to 2008

(In %)



Source: DIEESE, SEADE, MTE/FAT and regional institutions.
PED - Pesquisa de Emprego e Desemprego.
Publication: DIEESE

New Forms of Contracting Workers or Destabilization?

Between 1998 and 2008, there was an increase in employment on the margin of the dominant pattern only in the Federal District and Porto Alegre. In São Paulo, the percentages did not alter. In the other regions there was a reduction. Despite the favorable results arising from economic growth, and the intense movement to formalize employment between 2004 and 2008, the proportion of jobs generated outside the paradigmatic pattern varied between 21.9% in Belo Horizonte and 33.9% in Recife (Table 2).

Table 2 - Distribution of jobs generated by enterprises by forms of contract in the Metropolitan Regions and the Federal District. 1998 to 2008

(In %)

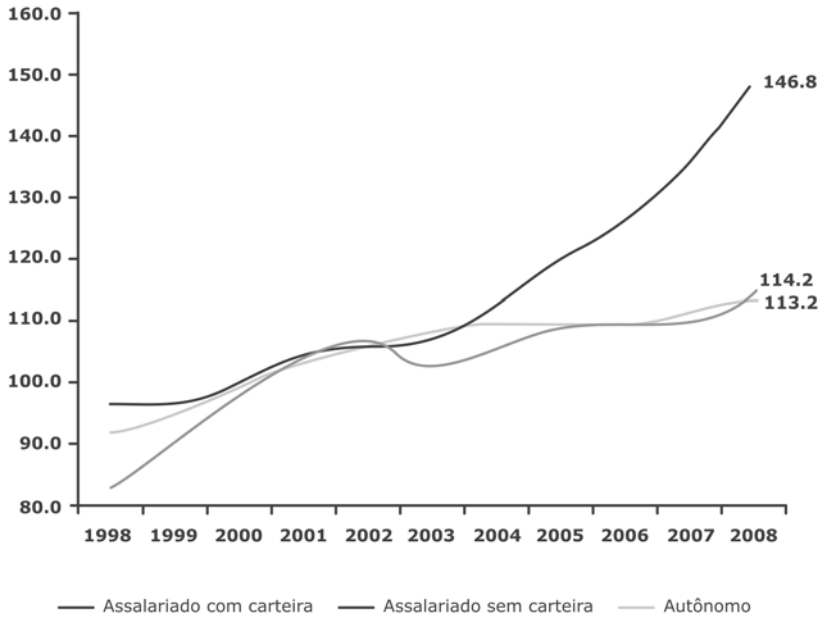
Forms of Employment	São Paulo	Porto Alegre	Belo Horizonte	Salvador	Recife	Distrito Federal
1998						
Standard Pattern	**68.4**	**77.9**	**72.6**	**65.8**	**64.2**	**74.6**
Wage workers directly contracted						
Documented-Private Sector	57.4	61.5	56.1	43.9	44.1	35.2
Documented-Public Sector	4.0	6.4	5.4	6.9	7.1	6.2
Statutory	7.0	10.0	11.2	15.0	13.0	33.1
Other Forms	**31.6**	**22.1**	**27.4**	**34.2**	**35.8**	**25.4**
Wage workers directly contracted						
Documented-Private Sector	17.1	10.4	14.5	16.9	17.3	12.2
Documented-Public Sector	1.7	2.3	2.2	4.2	3.4	2.6
Outsourced. Waged	4.3	4.1	5.2	7.6	5.7	6.6
Independent. for a firm	8.5	5.3	5.6	5.4	9.4	4.1
Total positions	100.0	100.0	100.0	100.0	100.0	100.0
2008						
Standard Pattern	**69.0**	**75.3**	**78.1**	**68.9**	**66.1**	**69.9**
Wage workers directly contracted						
Documented-Private Sector	59.7	61.4	62.6	51.6	50.0	41.7
Documented-Public Sector	3.2	4.3	3.5	4.1	4.5	4.6
Statutory	6.1	9.6	12.0	13.2	11.6	23.7
Other Forms	**31.0**	**24.7**	**21.9**	**31.1**	**33.9**	**30.1**
Wage workers directly contracted						
Documented-Private Sector	17.3	12.6	10.8	14.7	15.2	10.9
Documented-Public Sector	1.3	3.3	3.0	3.7	4.0	3.4
Outsourced. Waged	5.1	5.0	3.4	9.1	6.9	11.8
Independent. for a firm	7.3	3.8	4.7	3.6	7.8	3.9
Total positions	100.0	100.0	100.0	100.0	100.0	100.0

Source: DIEESE. SEADE. MTE/FAT and regional institutions.
PED - Pesquisa de Emprego e Desemprego.
Publication: DIEESE

Since the period of growth in 2004, the movement of the Brazilian labor market was toward formal contracts, which is to say, contracts with signed documentation. Nevertheless, in 2008, in the metropolitan regions, nearly 10% of the total employed (or 20% of private sector wage earners) were without signed documentation and 18% were independent. Despite a still very high number of people working in the most precarious segments of the labor market, we can nonetheless note that of the jobs generated between 1998 and 2008 those with signed documentation grew at the highest rate (46.8%), principally beginning in 2003, in which documented work grew14.2% and independent work 13.2% in the same period (Graph 5).

Graph 5 - Index of Employed Persons by Position
Metroplitan Regions and Federal District 1998 to 2008

(In %)



Source: DIEESE, SEADE, MTE/FAT and regional institutions.
PED - Pesquisa de Emprego e Desemprego.
Publication: DIEESE

One can perceive that in periods of crisis there is a tendency for an increase in alternative forms of contract, many of them illegal and others that hide wage relations and subordination: an increase in outsourcing on the part of production and services, direct contracting with autonomous workers and wage labor without signed documentation in the private sector. As a survival strategy in the face of changes and uncertainties in the economy, firms have used new forms of contracting labor such as wage labor without documentation and autonomous workers that act only for one company. In this form of employment the firm transfers to the worker himself, in the end, part of the costs of work or, in the first instance, the "option" to work outside of the collective protection provided by unionized labor and outside of the social protection guaranteed by the state.

Final Considerations

The Brazilian labor market is very heterogeneous. High turnover, unemployment and low remuneration are marks of its inequality, to say nothing of the difficulty that women, youth and Afro-Brazilians have in finding new work. In addition to higher unemployment, these groups receive lower salaries and are vulnerable to the most precarious forms of employment.

To these old problems we must had new questions, such as the contracting of autonomous workers by just one firm, outsourcing and other strategies that make work relations more flexible for employers. These old and new challenges demand that the entire society rethink strategies for growth. It is necessary to incorporate the notion of development into the plan that this country wants for itself.

All public policies and actions must be intentionally oriented toward the generation of employment and income in order to guarantee the right to work to all those who want it. There should also be provisions for negotiations that favor workers such that they can struggle for quality work and remuneration. As such it is necessary to consider:

- Policies that generate jobs aimed in particular at the long-term unemployed and the most vulnerable (low qualifications, low income, employment volatility)
- Creation of mechanisms for social protection for long-term unemployment.
- Investment in actions that favors the formalization of work according to different occupational sectors.
- Incentives for collective bargaining as a form of profit sharing, in the form of remuneration or by improvements in working conditions.
- Advances in the implementation of policies that protect and valorize domestic work.

These policies must go hand and hand with the challenge of overcoming the inequality of income that arises with respect to region, sector, gender and race,

where inequities are so deeply rooted. They would guarantee the right to *decent work*, a concept defended by the International Labor Organization and today embraced by Brazilian society.

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To maintain and expand the benefits and services of the Welfare State will require an increased apportionment of resources, coming from taxation. This, in turn, would have to be further based on the progressive nature of the taxation on income and property. But, unhappily, this is not the ideology directing the economic destiny of the country.

Social Inequality in Brazil

Guilherme C. Delgado[1]

1. Introduction

The desire for social equality, an expression of human liberty as the capacity of acting and transforming the world, in accordance with values that we hold dear, is certainly an immanent aspiration for the condition of being human.

The ideas of social equality and its inverse – social inequality has the power of the force of autonomous ideas to communicate aspirations; but soon requires that they be explained conceptually – equality or inequality, which is it being discussed. The road is necessarily long to explain the differences of the concepts of (in)euality of opportunity, (in)equality of capabilities, (in)equality of income and wealth, or even the ethnic-cultural character of peoples, which, by establishing differences between human beings, are transformed into vectors of profound social inequalities.

Inequality, here understood as the negation and/or restriction of human liberty, is an anti-value, under any criteria. Its analysis and interpretation will always be attempts made with a view to some type of ethical-political positioning.

In this text, for reasons of the context, I shall restrict myself to analyzing (in)equality of income and wealth in Brazil in the first decade of the 21st century. Not that this is the best expression of human liberty. The reason is pragmatic: all public debate has focused on the indicators of inequality in the distribution of social income. To avoid this debate, utilizing other concepts, would not answer the various questions and doubts that are being put forth. We begin with a key question: Is inequality of income falling in Brazil? What is the cause?

[1] *Guilherme C. Delgado is a retired IPEA researcher. He holds a Doctorate in Economics from the University of Campinas, is a Visiting Professor at the Federal University of Uberlândia, MG, and a Board Member of the Network for Social Justice and Human Rights.*

2. Inequality of income is falling? How can this be explained?

This empirically described fact is evidence from the field of phenomena. It requires contextual analysis and interpretation of meaning, so that one can therefore understand its significance and social implications.

There is one empirical fact, described systematically by IBGE statistics, which is the fall in the indices of inequality of income (GINI Indices) from 1996/97 to 2008.[2]

Another measure of income inequality – the proportion of monetary income of the 10% richest members of the population, compared with the share of the 40% poorest, has also improved in the same period.

These two facts are easily true in factual terms. There causal explanation and their meaning from the point of view of a "fall in inequality" or the achievement of social equality are what must be better clarified.

Note that the social income whose distribution is improving is the mass of income for labor, with additives for payment of social policy monetary benefits. But this expression of income for labor, with the addition of "Social Benefits," as IBGE itself points out in Social Accounting surveys, is and continues to be a small part of the distribution of income in Brazil (see data in Table 1).parcel

Table 1
Participation of Labor and Capital in Domestic Income: 2000-2006

Years Allocation of Domestic Income	2000	2001	2002	2003	2005	2006
I- Gross Domestic Income	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**
1- Salaries and wages	32.10	31.96	30.90	31.09	31.74	32.54
2- Social Benefits (monetary)	13.59	14.10	15.26	15.59	14.97	15.46
II- 1+2= Monetary Income from Labor	**45.69**	**46.06**	**46.16**	**46.68**	**46.71**	**48.00**
III- Non-monetary Benefits	(8.48)	(8.30)	(8.72)	(8.34)	(8.12)	(8.57)
IV- Income from Capital*	**45.37**	**44.47**	**45.29**	**45.91**	**44.51**	**43.80**

Source: System of National Accounts of Brazil 2000/2005 and System of National Accounts 2002-2006 Rio de Janeiro IBGE 2008 (the construction of the aggregate "Monetary Income from Labor" is the author's)
* Income from capital is obtained in this statistical source by means of "aggregation of the gross operational surplus," plus "mixed labor-capital income"

[2] *According to PNAD-IBGE – "Synthesis of Indicators – 2006" – p. 72 – "The index for income for all workers 10 years of age or more in the 1996-2006 period," falls slowly and continues on since the 1996/1997 period, when the lowest level was at 0.580 , until reaching 0.541 in 2006. The PNADs for 2007 and 2008 confirm this tendency/trend of a drop in the inequality of income for labor.*

All discussion in the media regarding income distribution concerns the 45% to 48% of the Gross Domestic Income (equal to the Gross Domestic Product) going to physical persons (183 million Brazilians).

The other part going to institutions (chiefly companies), in the form of interest, profits, dividends, rents, etc., the number of receivers of which is between 1% and 2% of the population, allocates a like slice of Domestic Income – something like 45%. The 10% that completes the picture refers to funds for maintaining and expanding the bureaucratic machine.

In order to place the analysis of the inequality in income within the framework of having experienced some improvement – income for labor paid to families – it is, however, necessary to point out the true causes. These have been the payment of benefits and rendering of services under social policies (health and education principally) – the main causes compensating the decline in the mass of "salaries and wages" in Domestic Income, as can be seen in the data in Table 1.

The distribution of social income – or, to be more precise, of the economic excess generated in a capitalist economy, obeys two distinct dynamics. The first is that of accumulation of capital in the markets. The other is the public policies of the State, centered in the budgets and taxation. Without going into discussion of the merit of the interpenetration of these dynamics, what must be stressed here is the fact that the improvement in the distribution of income for labor depends crucially on factors related to social policy actions of the State, supported by taxation.

There is no historical evidence or illustrative or explanatory theory for a positive change in the distribution in income due strictly to the dynamics of the accumulation of capital.

3. How does inequality in the appropriation of wealth act?

From the preceding analysis we can conclude that there was a small improvement in income from labor, due principally to institutional payments – Social Security, Social Assistance, Unemployment, FGTS, PIS-PASEP, etc. which National Accounting calls Social Benefits; and now in a residual way we can add to these benefits the payments for the *Bolsa Família* Program (about 0.5% of Domestic Income).

But there is still a question on this point – is this improvement the fruit of an improved allocation of national wealth?

The answer, from the strictly economic point of view, is no. But from the political point of view, we need to understand what "allocation of national wealth" means.

The negative part of the answer is the easiest to talk about. Economic wealth, measured in terms of the value of assets (property rights) which produce economic

income – stocks, obligations, public debt bonds, real estate, titles to property in general, which represent rights to factories, lands, real estate, banks, commercial and industrial enterprises, etc. – do not show, neither in Brazil nor any other capitalist economy, any endogenous tendency to decentralizing. Indeed, the contrary is seen. An extreme case is the high degree of concentration of land ownership in Brazil, the paradigm for which is not really that of the modern capitalist economies which in the 19th or 20th century promoted some type of agrarian restructuring (US, Western Europe, Japan, Korea, Taiwan, China, etc.).

In Brazil there is no evidence, including in recent comparisons of the Agricultural and Ranching Census for 2006, compared to that of 1996, that there has been any lessening in the inequality of the distribution of land, but rather to the contrary.

Now, if the concentration of economic wealth apparently increased in the primary sector and the distribution of aggregate monetary income between labor and capital (functional distribution) essentially was stable (see data from Table 1 – Items II and IV); could there be a better allocation of income and national wealth, conveyed as benefits to physical persons, workers, and recipients of social services? This question makes total sense. Implicit in it is a lack of confidence relative to the empirical data in apparent contradiction with direct observations in the real world.

The response to this second question is a conditional yes, subject to justification. The category of social right, expressed as a form of a positive right, tends to change the distribution of economic income, privately appropriated by the holders of social wealth. This is precisely the basis of a social State or Social Welfare State. The classic form of permanent appropriation of social income by the State is taxation, conditioned to the transfer of same for redistributive purposes. But the structuring, maintenance, and expansion of a Social Welfare State, in a society that excels in expanding or maintaining economic inequality leads to a permanent challenge and backtracking.

The distributive conflict is latent and revision of the tenor of redistributive policies is signaled by the conservative agenda for reforms in the Social Welfare State. This agenda works at restricting social rights, and unlinking taxation from these social rights, in a persistent manner. To divorce social rights from fiscal obligations is the principal project of the conservative faction, with evident negative consequences for the timid attempt at redistribution put in place by the 1988 Constitution.

To maintain and expand the Benefits and Services of the Welfare State will require an increased apportionment of resources, coming from taxation. This, in turn, would have to be further based on the progressive nature of the taxation on income and property. But, unhappily, this is not the ideology directing the economic destiny of the country.

What can be said, a realistic forecast for the future, is that there is a structural tension between demands and expectations for basic social rights, which entail equality and, on the other hand, a fierce resistance by the holders of economic-financial wealth to permit such a movement from coming into being.

The heralds of economic power are already putting forth candidates and candidacies for 2011 with regard to reform – tax, social welfare, etc., the principal concern of which is to reduce the share of Social Policy Benefits and Services financed by taxes. Social rights supported by taxes dues with a view to improving equality are not part of the conservative discourse.

In turn, the citizenry benefiting from social policies is that part of the populace that needs to be included in a second generation of the Welfare State, and who are still under-represented politically in the current party choices.

What is going to happen incontrovertibly regarding inequality in Brazil in the next decade cannot be foreseen with certainty. But, still, one can take a position. Social and agrarian policies are critical for improving the social inequality situation, and both depend crucially on redistribution of income, which only well structured public policies can achieve.

The health sector, along with social welfare, is a pioneer in the domain of social policy in Brazil. The adoption of these principles and policies as law (universality, completeness, decentralization and participation) is the affirmation of the right to health as a route towards transforming the organizational structure of health care in Brazil. Brazilian health services are provided with great inequality, contributing to the idea that health care is a privilege rather than a right held by all citizens. Despite the promulgation of the 1988 Constitution which affirms the very opposite—that health is a citizen's right—there remain enormous barriers to the realization of the effective management of health care.

Health Care as a Human Right

Felipe Rangel de Souza Machado[1]

In 2000, a convention of the United Nations' Committee on Economic, Social and Cultural Rights (CESCR) defined health as, "a fundamental human right indispensable for the exercise of all other human rights. All human beings have the right take advantage of the highest possible level of health such as to live a dignified life." This definition complements that of the constitution of the World Health Organization, "The possession of the best state of health that the individual can attain constitutes one of the fundamental rights of all human beings." On this basis the WHO elaborates eight fundamental points that legitimate the right to health as a social practice: *health care, access, resources, acceptance of cultural practices, quality of services, sanitation, education*, *and health information* (Nygren-Krug, 2004: 19).

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The definition of the CESCR indicates that the right to health must be understood on the basis of an ideal of equality and equity, incorporating other distributive criteria, especially considerations of poverty and social vulnerability. Therefore, it is not sufficient that the right to health be fulfilled only in the "form" of law, it is necessary that it be realized in the daily concrete practice of services provided to the population.

The health sector, along with social welfare, is a pioneer in the domain of social policy in Brazil. The adoption of these principles and policies as law (universality, completeness, decentralization and participation) is the affirmation of the right to health as a route towards transforming the organizational structure of health care in Brazil. Brazilian health services are provided with great inequality, contributing to the idea that health care is a privilege rather than a right held by all citizens. Despite the promulgation of the 1988 Constitution which affirms the very opposite—that health is a citizen's right—there remain enormous barriers to the realization of the effective management of health care.

Norberto Bobbio (1992) insists that we must find the most secure means to guarantee social rights because, despite many solemn declarations, they continue to be violated. The guarantee of the right to health requires going beyond the limits of specific actions and instead to rethink possible government attempts to overcome the social inequalities of Brazil. The guarantee of basic human rights (the first of which is the right to life) is the premise for any society that even minimally considers itself a democracy. The right to health is a necessary condition for the exercise of all the other social rights; their guarantee, according to the Constitution, is an indicator of the social and economic development of the country. The adoption of the right to life as a value to be defended assumes along with it the right to health as an incontrovertible social policy, characterized as indispensable in the exercise of citizenship.

Citizenship can be understood in a double way. First, 'formal citizenship', defined as the condition of a determinate subject to be a member of a nation-state; and, second, 'substantive citizenship', which is expressed through a body of laws that regulates civil, political and social rights for the entire population of a nation. Nevertheless, this second form of citizenship also can be configured only at a formal level such that the legal articulation of rights does not necessarily imply the material guarantee of these same rights will actually be put into practice.

Due to the fact that Brazil has endured a patriarchal and authoritarian political history with transitions from one regime that fails to value citizenship to another, Brazilians must pass through two difficult stages: to learn both what democracy is as well as the paths that will concretize their citizenship. Brazilians are all too used to living in a state that is very selective about the demands to which it will respond such

that the collective perception of possible routes of action is sorely reduced. This state of affairs actually suggests that the notion of right is a gift of the state. Fleury (1997: 152) says that traditional political practices—clientalism, corporatism, bureaucratic entanglement and corruption, etc—"were efficient mechanisms to guarantee the exclusion of the majority of the population from the goods of a state that distributed largesse for the few and repression for the many." (FLEURY, 1997: 152). This was affirmed principally by the adoption of determinate public policies in Brazil which "played a very important role in the consolidation of a republican order that, from its origin, maintained anti-democratic traces whose roots one finds in the existing social structure which conciliates within itself interests that are objective contradictions." (LUZ, 1994: 133). These historical and cultural conditions, moreover, are not susceptible of abrupt transformation, thus perpetuating a situation of social exclusion that has dominated the constitution of Brazilian society for many decades.

According to Reis (2007: 25), this structure of Brazilian society has led to a "model of citizenship based on passivity (...) which is a fundamental result of a perception of the state as generous and prudent and of the embodiment of Brazilians under the stewardship of a guardian. This renders citizens apathetic and accommodating, practically absent from the struggle for rights, such that they perceive that anything derived from the government comes as gifts in response to loyalty and gratitude." In this same line of thought Telles (1999) says that Brazilian social justice was conceived within a tutelary rather than egalitarian imaginary which disfigured from the start the modern notion of rights (the possession of which is guaranteed legally on the basis of determinate rights and freedoms), inculcating the idea of rights guaranteed only by the benevolence of the state. The persistence in society "of a perception of rights as a gift of a protective state would be inexplicable without this peculiar experience of citizenship, which is disassociated from political liberty as a value and as a effective practice and that confuses itself, reducing itself to access to social rights." (Telles, 1999: 91). The studies of Luz (1991: 77) point in the same direction, claiming that health policy and institutions "help to model structural traces of this order which manifests a concentration of power and the exclusion of popular classes from the circuits of economic, political and cultural decision-making in the country."

The affirmation of new rights requires a constitution of active social subjects, understood as political agents with a dual capacity: to propose new actions based on what they consider to be their rights, and the struggle for their recognition. The trajectory for this can be found in the research of Dallari (1996) along with the representatives of the Municipal Health Councils. Dallari *et al* describe the potential of the transformation of social movements principally based on changed notions of citizenship, such that

some of these movements are starting to crystallize the concept of citizenship not only in terms of social and material gains but, above all, in the formation of an "identity" which opposes the idea of exclusion and the form of society in which there are two classes of "citizens". "The term citizenship ceases to have a merely 'juridical' meaning, symbolizing what this social movement is all about." (Dallari *et al*, 1996: 534).

In order to understand these movements Dallari *et al* propose fine-tuning regarding the forms of citizenship actualized in civil society. This theoretical perspective affirms right as an ethical referent of justice developed within these social movements and demanded as a guarantee of their material conditions of existence. This marks the way to the construction of new rights in the field of health. Perhaps the prime example of this process has been the attempt, on the part of new agents of the Unified Health System (SUS), to concretize constitutionally guaranteed rights. The best strategy of these activists has occurred in the field of Law, a sphere which has offered effective guarantees in the struggle to overcome the contradiction between constitutional rights, until now abstract, and concrete practice in health policy.

The notion of the vigilant citizen and the actualization of new social and political agents (for example, organized groups in the field of health within civil society, the Health Councils and the Public Ministry themselves), is a new though not hegemonic paradigm. This involves a change from the mere delegation of authority to elected representatives towards an active or indirect participation of citizens in the course of public policy. This new orientation strives towards what we might call a *complex citizenship*, according to which social agents act vis-à-vis the juridical system such as to seek solutions and resolutions for dilemmas deriving from social conflicts in the field of health.

It should be emphasized that the constitution of the modern democratic state has as one of its pillars that political decisions be the result of the expression of active citizens. As such, the judicial branch of government has its foundation seated in the interpretation of constitutional norms and has as its chief function the rendering of decisions on the conformity, regularization and application of legal codes. Starting in the 1970s and more specifically with the decline of the welfare state and not withstanding these traditional functions, the judicial branch began to have cases brought to it regarding diffuse and collective rights, themes that have traditionally had little to do with the intrinsic rationality of the judiciary. In the case of Brazil, this process was much more recent, beginning as it did in the 1990s following upon the re-emergence of democracy. With respect to Brazil it is essential to emphasize that the increasing importance of the judicial branch is fundamentally owing to the fact that the Brazilian Constitution is a document so open to interpretation. The consensus reached during the National Constituent Assembly involved the creation of laws that were broad and, at times,

vague and indeterminate. Vianna et al (1999) show that the National Constituent Assembly was beset by powerful tensions between antagonistic groups that battled to hegemonize their view in the constitutional text. Thus, "it was left to the future to concretize the values and positive principles in the document, depending upon a new arrangement of forces subsequent to the democratic process that the Constitution itself inaugurates (*idem*)".

In this way, the strategy by which subjects can achieve their rights takes place in and through demands brought to judiciary. This process commonly is called the *juridicalization* of health. For the authors of this notion, Tate and Vallinder (1995), juridicalization essentially means working more from within the form of the judicial process. The authors claim that there are seven specific conditions to ensure the existence of the phenomenon: 1) the existence of a regime of democratic governance with the effective separation of the three powers; 2) the existence of a policy of rights, written or unwritten, within a constitutional declaration of fundamental rights; 3) the existence of pressure groups that have identified pertinent juridical tribunals as arenas for the articulation of their interests; 4) the existence of institutions which are incapable of uniting within themselves sufficient public support to defend their policies and which have, therefore, the necessity of seeking within the judiciary the means to realize these policies; 5) a generally negative perception of the institutions originally responsible for the formulation of public policy, which have come to be seen negatively by a public fearful of state clientalism, personalism and corruption; 6) the wilful inertia of the legislature on certain matters; and, 7) the posture on the part of judges to accept the challenge of opining on political questions.

In their study of actions taken to ensure accessibility of the medications necessary to combat AIDS, Gouvêa (2003) showed that in 1996 there was a marked change in the posture of the Brazilian judiciary. Gouvêa argued that before this year all similar actions brought before the court had been summarily refused but that, starting in 1996, almost all petitions were accepted by the Court. The initial justification for their rejection was based in an interpretation of Article 196 of the Constitution as merely a *programmatic norm*, insusceptible of producing positive juridical rulings. The relevant question that was presented as the motive for the change in the judiciary was the creation of Law No. 9.313/96, which guaranteed the free and universal distribution of antiretroviral drugs. This obligation is shared between the Federal Government, the States, the Municipalities and the Federal District.

Messeder, Osório-de-Castro and Luiza (2005) demonstrated in their research that, starting with the development of the National Program for HIV/AIDS in 1997 and the free and organized distribution of drugs to combat AIDS, there was a clear decline in

the number of judicial procedures on this issue. This indicates that the large number of juridical actions to guarantee AIDS treatment was tantamount to the broadening of the law itself, provoking the legislature to formally create this law and the executive to adopt it. Contrary to the perspective by which this interference by the judiciary would provoke a retraction of citizenship (by diminishing the importance of elected bodies of the state, that is, the legislative and executive branches) this case illustrates the possibility of its amplification (even if not by way of traditional representative democracy), mediating the access of citizens to the legislating and executing of laws (such as to thus create a more participatory democracy). It is a question, in the end, of amplifying citizenship through the participation of organized groups in society that come to play the role of *agents provocateurs* of justice, even if in a restricted way. This type of action creates an indirect access on the part of citizens to the bodies that make law.

At the beginning, the emergence of a law that mandated the furnishing of anti-retroviral drugs, by virtue of the fact that it delimits the field of application of the law, could have resulted in the diminishment of the discretion of justices and, consequently, diminish the degree to which the judiciary can intervene in the field of health. However, one observes just the opposite. If Article 196 was originally considered a programmatic norm, the same text, beginning in 1997, came to be recognized as a fully efficacious constitutional mandate. This, however, is not a consensus within judicial circles. One must also not fail to note that in the context of the scarcity of our resources, human rights, and above all the right to health, are subject to an incontestable programmatic slant with respect to their development. Werner (2008) argues that "there is always a new discovery, a new diagnostic or prognostic technique, a new medication, a new illness or a return of an old one. Dealing with this kind of complexity of information makes necessary the constant revision of the system."

According to Gouvêa (2003), motivated by this change in the decision-making patterns such that it is henceforth considered that the right to health has, inherent in its normativity, immediate applicability and full effectiveness, "actions which seek to ensure access to drugs for other illnesses are more and more frequent and with a higher percentage of successes. The expansion of the judiciary, according to Cappelletti (1993), is coming to alleviate the difficulties that limit the executive and legislative branches with respect to the vocalization of the popular will. These institutions operate as a "complex political structure", in which various groups seek their advantage, manipulating within a variety of nucleii of power, [and] that which results from this is not necessarily the will of the majority […] but is, frequently, a compromise between conflicted groups." (*idem*) Beyond this, Vianna *et al* (1999) argue that in modern states parliaments are so dedicated to the resolution of sectarian conflicts that they end up lacking the ability to

respond with agility to social demands, "Parliaments give to themselves tasks so numerous and diverse that, in order to avoid paralysis, they find themselves required to transfer to other bodies the majority of their activities such that their responsibilities are abdicated." In the face of this scenario the judiciary has, to the degree that legislation permits, taken the reins of the debate and provoked substantial transformation in the development of public policy in Brazil, especially in the field of health.

Before rushing to form a definitive opinion on the juridicalization of policies in Brazil, perhaps it is necessary to reconsider several of the principal hypotheses that delineate the current debate on this issue in society. Initially, we considered the propositions that juridicalization is an extension of democracy and an amplification of citizenship. Before affirming this hypothesis, we must verify if, in the process of juridicalization, there has been an increased incorporation of "marginal groups" in the political system, such as suggested by Cappelletti (1993), or if, on the contrary, juridicalization does not guarantee rights but is, on the contrary, contributing to the asymmetry of rights in Brazilian society. Evidently, we can also consider a third possibility, which is that the juridicalization of health contributes as much to the incorporation of marginal groups in the political system as to the intensification of asymmetry. In this case, it would still be necessary to calculate the proportion in which each of these phenomena have occurred such that we can prove to what degree each of these constitutes a tendency of the process of juridicalization in the field of health. It is evident that determinate groups have daily discovered the potential of the courts to attend to their demands and to correlate them to rights formally guaranteed by the Constitution, as per the broader interpretation of human rights. This is one of the principal forces that has led to the amplification of the judiciary in the field of health in Brazil.

In any case one cannot lose sight of the potential of the judiciary's actions to pressure the other branches government to attend to the unfulfilled needs of Brazilian society. As took place with respect to AIDS policy, jurdicalization can contribute to the expansion of the activities and services made available by the state and for the reform itself of the policies that come to develop there from. We cannot lose sight that the activation of the judiciary can contribute to, but not necessarily expand, democracy. In this specific case, it is necessary that the legislature act so that rights can be expanded. The judicial contribution is indirect. The judiciary does not have the capacity to oblige the legislature to make laws in the same way that it can oblige the executive to implement them.

In this brief theoretical approach to the subject, it can be seen that there is both positive and negative evidence with respect to the process of the expansion of the judiciary in Brazil. The adoption of the AIDS policy clearly represents the first group. On the other hand, there are indications that the acquisition of determinate input can

diminish the beneficial aspects of juridicalization. The enormous majority of juridical actions are by individuals motivated by personal interests. In any event, with regard to the question of human rights in the 21st century, juridicalization can be looked upon as a supplementary strategy in the struggle, given that its efficacy is limited, or even limiting. It remains, therefore, to reaffirm the necessity of strengthening the classic strategies of collective mobilization in the struggle for political and legislative reforms, understanding that it is politically wise to reach for an ideal beyond social democracy which includes human rights as a central question.

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In Brazil the maternal mortality situation is extremely worrisome, as indices remain high and there is no indication that the country can obtain the Millenium objective of reducing maternal mortality by 75%. In this regard, there is a restriction of the capacity and freedom of women to live and achieve their life goals, which, to be fulfilled, would necessarily include the right to enjoyment of a sexual and reproductive life that is healthy, satisfactory, informed, autonomous, free of discrimination, coercion or violence and, above all, free from avoidable maternal death. Criminalization of abortion by the current law contributes to the high maternal mortality rates in the country. Unsafe abortion is a sad reality, it being estimated that there are approximately 1 million abortions performed annually.

Reproductive Rights: Human Rights in Dispute

Beatriz Galli[1]

International human rights law scholars used to use historical stages in order to justify "generations" of rights.[2] This approach was, however, was thrown out at the Vienna Conference in 1993, which established the indivisibility, interdependence and complementary nature of all human rights. New and old rights must be treated with the same priority, negating the logic of fragmenting human dignity. Those claiming human rights seek social recognition for their struggles and recognition of their specific identities, most recently expressed through groups, such as women, children, the elderly, blacks, indigenous peoples, gays, lesbians, and workers in general express and demand human rights not easily recognized by a public space that has been historically exclusionary in nature. Human rights have multiple dimensions and are under permanent construction[3] in the national and international arenas, as a result of historical-social construction, i.e., each stage constructs and reconstructs itself in social tensions and conflicts.[4]

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[2] *Bobbio, Norberto, Era dos Direitos (The Era of Rights), Rio de Janeiro, Campus, 1988.*

[3] *Hannah Arendt, As Origens do Totalitarismo (Origins of Totalitarianism), Rio de Janeiro, 1979.*

[4] *WOLKMER, Antônio Carlos. Pluralismo Jurídico-Fundamentos de uma Nova Cultura no Direito (Juridic Pluralism – Foundations of a New Culture of Law). São Paulo: Alfa Ômega, 1994; and WOLKMER, Antonio Carlos. (Org.). Direitos Humanos e Filosofia Jurídica na América Latina (Human Rights and Juridic Philosphy in Latin America). Rio de Janeiro: Lumen Juris, 2004.*

It is generally within patriarchal societies that there are predetermined and stereotypical social roles for men and women, where women have the free exercise curtailed of their human rights related to sexuality and reproduction, the so-called sexual and reproductive rights. The history of inclusion of the rights of women as part of International Human Rights Law is quite recent; it dates from the Vienna Human Rights Conference on 1993, when the international community agreed that violations of women's human rights that occurred in the private sphere should receive the same treatment as violations occurring in the public sphere, and receive due international protection. This step was decisive for recognizing domestic violence against women as a violation of human rights, which can involve the international responsibility of the State whenever its systematic inertia can be proven in preventing, trying, and punishing those responsible.[5]

Initially the member states of the international system (UN) and the regional system for protection of human rights (OAS) included clauses prohibiting discrimination for reasons of gender within traditional human rights treaties such as: the International Covenant on Civil and Political Rights,[6] the International Covenant on Economic, Social and Cultural Rights,[7] the American Convention on Human Rights[8] and the Interamerican Convention to Prevent and Punish Torture.[9] Following this the international and regional systems went through a process of specifying those subject to international protection of human rights, focusing on the more structural and perverse aspects by which women suffer discrimination and violence. With regard to the subject in general, the principal treaties are the Convention on Elimination of All Forms of Discrimination Against Women[10] and the Convention to Prevent, Punish and Eradicate Violence Against Women[11] (also known as the Belém do Pará Convention). The international standard for protection of human rights also came to include the rights of women in general human rights treaties, such as the Rome Statute of the International Criminal Court.

Equally recent is the construction of sexual and reproductive rights and their emergence as human rights. In this regard, the sexual and reproductive rights of women have been under construction in the local, national, regional and international scenarios

[5] *On August 13, 1998, the Maria da Penha versus Brazil case was sent to the Interamerican Commission on Human Rights of the OAS, by CLADEM (Latin American and Caribbean Committee for the Defense of the Rights of Women) and by CEJIL (Center for Justice and International Law). The Commission considered the Brazilian government to be responsible for omission, negligence and tolerance with regard to domestic violence against Brazilian women. This case set the standard; it was the first case on domestic violence decided by the Interamerican Commission and resulted in measures by the government, such as the drafting of a specific law on domestic violence, Law 11.340, the Maria da Penha Law. See Pandjiarjian, V. Maria da Penha: a women, a case, a law. CLADEM Informative Magazine, Year 6, November 2007.*

[6] *Ratified by Brazil on January 24, 1992.*

[7] *Ratified by Brazil on January 24, 1991.*

[8] *Ratified by Brazil on September 25, 1992.*

[9] *Ratified by Brazil on July 20, 1989.*

[10] *Ratified by Brazil on February 1, 1984.*

[11] *Ratified by Brazil on November 27, 1995.*

for a long time. This began in the 1960s and continued throughout the 1970s, when the States were faced with a phenomenal increase in the population growth rate. The government policies adopted at that time centered not on the structural aspects of how to deal with the problem, but on controlling reproduction and the sexuality of the most vulnerable social groups affected by socio-economic disadvantage. By means of control of population growth, the States attempted to reduce the growth of poverty by fixing demographic goals.

At that time the big question was: "Is family planning a private or a public matter?" The private sphere in which women exercise their sexuality and reproduction came to have a public dimension due to its impact on the design of population policies. Women from the poorer strata of society were the principal targets of these policies on population control, which determined their reproductive and sexual choices in the private and public spheres of their lives. On the other hand, since the 1960s the feminist movements have been mobilized against such policies directed at reduction of population growth and alleviation of poverty.[12]

It was in 1994, at the International Conference on Population and Development, in Cairo, and later at the World Conference on Women, held in Beijing in 1995, that the States recognized that sexual and reproductive rights were human rights. Since then, the paradigm shifted from control of feminine fecundity to a perspective of promoting formal and substantial equality between men and women in all dimensions of their existence, such as sexual and reproductive self-determination,[13] without discrimination, coercion or violence.[14] The Cairo process introduced a focus on empowering women in their families and communities with regard to questions of sexual and reproductive health.

By using the concept of sexual and reproductive rights it is sought to reconstruct and expand the discourse on human rights to include the gender perspective and socio-economic, cultural and racial categories in themes broaching sexuality and reproduction. The approach to human rights is used here to reinforce the possibility of women making informed choices, enabling their greater empowerment in making such choices.[15] This article will focus on reproductive rights from the perspective of human rights, to trace the panorama of their current status, challenges and contradictions.

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[12] *Barsted L., Sexualidade e Reprodução: Estado e Sociedade (Sexuality and Reproduction: State and Society), in Saúde Reprodutiva na América Latina e no Caribe (Reproductive Health in Latin America and the Caribbean), Elisabeth Dória Bilac e Maria Isabel Baltar (orgs.), Campinas: PROLAP, ABEP, NEPO/UNICAMP/São Paulo: Ed. 34, 1998*

[13] *On human rights related to sexual and reproductive self-determination, see Rebecca J. Cook, Bernard M. Dickens and Mahmoud F. Fathalla, Saúde reprodutiva e direitos humanos, integrando medicina, ética e direito (Reproductive health and human rights; integrating medicine, ethics and law), Cepia, 2004.*

[14] *Paragraph 72 of the Cairo Action Program establishes that sexual and reproductive health means that individuals have the ability to have a satisfactory and safe sex life and that they have the capacity and the freedom to decide if, when and how they will do so. (FONTE)*

[15] *Sonia Correa and Rosalind Petchersky, Reproductive and Sexual Rights: A Feminist Perspective, in Population and Policies Reconsidered – Health, Empowerment and Rights, March 1994.*

The perspective of human rights for reproductive rights

There are distinctions between sexual rights and reproductive rights. From the feminist perspective, reproductive rights are rights to equality and liberty within the sphere of reproductive life. Sexual rights relate to the right to equality and liberty in the exercise of sexuality by different groups, such as gays and lesbians who claim new models of sexuality and criticize the logic of sex for procreation and heterosexuality as the "natural" expression of sexual relations, accepted as the social norm. These are two separate camps regarding human rights, because they deal with two different dimensions of social life.[16]

Sexual and reproductive rights have a dimension that deals with individual freedom, the so-called reproductive self-determination, free of discrimination, coercion and violence, basic to control and decision regarding fecundity. On the other hand, there is a public dimension, because they depend on public policies and laws that guarantee their exercise by men and women. [17] The social rights perspective is central for inclusion of the right of access to information, means and resources in order to enjoy the highest standard of sexual and reproductive health, understood to be not merely the absence of illnesses and disease, but also as the capacity to enjoy a safe and satisfactory sex life, to reproduce with liberty, with access to the benefits of scientific progress and to sex education. The human right to dignity, freedom and security guarantees for women reproductive self-determination or autonomy. Reproductive autonomy enables couples to control the number and spacing of their children; the right to receive information enables them to make informed decisions with privacy and confidentiality regarding their reproductive life.[18] The right to health that covers the right to sexual and reproductive health includes access to health assistance services, goods and equipment that are available, economically and physically accessible, culturally acceptable and of good quality.[19]

The exercise of these rights is directly linked to the idea of the exercise of liberty for women to make decisions in the private sphere in order to realize their personal, professional and family life plans. The Interamerican Court of Human Rights already rendered a decision on *Layaza Tamayo vs Peru,* establishing their jurisprudence based on the theory of a life plan.[20] Such decision can be considered a landmark for the reproductive

[16] *Ávila M.B., Direitos Sexuais e Reprodutivos: desafios para as políticas de saúde (Sexual and Reproductive Rights: challenges for health policies),*

[17] *Flávia Piovesan, Direitos Sexuais e Reprodutivos: Aborto Inseguro como Violação aos Direitos Humanos (Sexual and Reproductive Rights: Unsafe Abortion as a Violation of Human Rights). In Limites da Vida: Aborto, Clonagem Humana, Eutanásia sob a Perspectiva dos Direitos Humanos (Life Limits: Abortion, Human Cloning, Euthanasia from the Perspective of Human Rights), Editora Lumen Juris, Rio de Janeiro, 2007.*

[18] *Action Program of the 1994 Cairo International Conference on Population and Development. Paragraph 73. See also Beijing Declaration and Action Platform from the 1995 Fourth International Conference on Women, paragraphs 96 and 223.*

[19] *Committee on Economic, Social and Cultural Rights (CDESC) General Commentary No. 14: Right to the Highest Health Standard (Article 12), paragraph 12. UN Doc.E/C. 12/2004/4.*

[20] *Loyaza Tamayo Case, Inter-American Court of Human Rights, Sentence on Reparations, November 27, 1998. Series C, No. 42.*

rights of women in the region and can be applied by analogy for evaluation of the degree of empowerment in the making of decisions on sexuality and reproduction, central dimensions of human life, within the scope of health policies and laws and human rights with parity between men and women.

Instances of gender inequality in the access to health, added to a social environment that systematically denies women's realizing their personal aspirations in the area of reproduction and sexuality, evidence the omission by the State in complying with its international obligations in the field of human rights.

All individuals have sexual and reproductive rights that are based in a set of human rights founded on principles of dignity, equality and non-discrimination. Such rights include: the right to life and survival; the right to liberty and security; the right to be free from torture or inhumane and degrading treatment; the right to a private family life; the right to equality and non-discrimination; the right to health; the right to information; etc.[21] In Brazil, such rights are equally provided for in our Federal Constitution, based on the incorporation of international human rights treaties in Brazilian territory, as determined by Article 5, Paragraph 2 of the Federal Constitution,[22] independent of later law, owing to its status as a constitutional standard, as opined by jurist Flávia Piovesan.[23]

In addition to international human rights treaties, there are international consensus[24] documents that establish paradigms with regard to sexual and reproductive rights. With respect to sexual and reproductive health, the World Conference on Population and Development held in Cairo in 1994 was particularly important.

The final document of this Conference, known as the Cairo Action Program, established that reproductive health ia a general state of physical, mental and social well being and not the mere absence of illness or disease, in all aspects relating to the reproductive system as well as its functions and processes.[25] It also established that reproductive health included the capacity to enjoy a satisfactory and risk-free sex life, as well as to procreate, and the freedom to decide to do so or not, when and with what frequency. Men and women have the right to obtain information and access to safe, effective, accessible and acceptable methods of their choice to regulate fecundity, as well as the right to receive suitable health services that allow for risk-free pregnancies and births.[26]

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[21] *Dourado D., "No Fio da Navalha (The Razor's Edge)," in Direitos Humanos, Ética e Direitos Reprodutivos (Human Rights, Ethics and Reproductive Rights), Dourado D. & Dresch da Silveira D. (orgs.), Porto Alegre, Brasil, Outubro 1998.*

[22] *See the Federal Constituion, Article 5, Paragraph 1.: "Standards defining fundamntal rights and guarantees are immediately applicable."; and Article 5, Paragraph 2: "The rights and guarantees expressed in this Constitution do not exclude others arising from this regime or from principles adopted thereby, or from international treaties to which the Federative Republic of Brazil is a party."*

[23] *See Flávia Piovesan, Direitos Humanos e o Direito Constitucional Internacional (Human Rights and International Constitutional Law). Ed. Max Limonad. 1997.*

[24] *International Conference on Population and Development, Cairo, 1994.*

[25] *Paragraph 7.2.*

[26] *Paragraph 7.2.*

The final document of the Fourth International Conference on Women, held in Beijing in 1995, was the Beijing Action Platform which called upon governments to consider revising laws that provide for punitive measures against women who have had illegal abortions.[27] In spite of the final documents of the Cairo and Beijing Conferences not being instruments of a legally binding nature and not creating any legal obligations for implementation by signatory governments, they represent the consensus of the international community on the subject of sexual and reproductive health and define concepts that should guide the interpretation of human rights instruments, in addition to being instruments for political action to guarantee sexual and reproductive rights.

In spite of the recognition of sexual and reproductive rights as human rights in the laws and policies of the various countries and within the scope of international human rights law, such rights are still socially and culturally contested, making their realization difficult for men and women. This can create situations of discrimination within the text of the law, such as in those countries where women are criminalized for the practice of abortion, for example.[28] Other discrimination occurs in the area of equal access to health for women or gay and lesbian groups. Health policies for the population should be secular, and attend to health needs with specificity.

A threat to reproductive rights in Brazil: the question of unsafe abortion

The UN Council on Human Rights, at its 11th ordinary session, on June 17, 2009, approved by consensus Resolution No. 11/8 which recognizes avoidable maternal morbidity-mortality as a question of human rights. More than 79 member states of the UN recognize that the question of maternal health is a challenge for the exercise of human rights and that governments must intensify their efforts to reduce the high and unacceptable global rates.

According to the World Health Organization, in 2005 in Latin America and the Caribbean, estimated maternal mortality was 130 deaths for every 100,000 live births.[29] In that same year, 15,000 women died in the region.

In spite of the recent efforts by the Brazilian government in terms of laws and policies aimed at the exercise of women's sexual and reproductive rights, the maternal mortality rate[30] in Brazil is still considered high in the country. Although the official

[27] *Paragraph 106 (k).*

[28] *Source: "Encarceladas – Leyes contra el Aborto en Chile, Un Análisis desde los Derechos Humanos (Imprisoned – Anti-Abortion Laws in Chile, a Human Rights Analysis)" – Centro Legal para Derechos Reproductivos y Políticas Públicas (Legal Center for Reproductive Rights and Public Policy)(CRLP) y Foro Abierto de Salud y Derechos Reproductivos (Open Forum on Health and Reproductive Rights), 1998.*

[29] *Maternal Mortality in 2005. Estimates developed by WHO, UNICEF, NNFBA and the World Bank, WHO, 2007. p. 15*

[30] *Maternal mortality rate – Annual number of deaths of women caused by complications of pregnancy, birth or abortion, per 100,000 live births.*

data give 54 dates for every 100,000 live births[31], the adjusted maternal mortality rate, calculated by OMS/UNICEF/UNFPA[32], is 110 maternal deaths for every 100,000 live births.[33] Recent data point out that the rate is not being reduced as hoped over recent decades. In 2006 there were 1,623 deaths, according to the Ministry of Health.

In Brazil the maternal mortality situation is extremely worrisome, as indices remain high and there is no indication that the country can obtain the Millenium objective of reducing maternal mortality by 75%. In this regard, there is a restriction of the capacity and freedom of women to live and achieve their life goals, which, to be fulfilled, would necessarily include the right to enjoyment of a sexual and reproductive life that is healthy, satisfactory, informed, autonomous, free of discrimination, coercion or violence and, above all, free from avoidable maternal death.[34] Criminalization of abortion by the current law contributes to the high maternal morbidity-mortality rates in the country. Unsafe abortion is a sad reality, it being estimated that there are approximately 1 million abortions performed annually, according to data from recent studies.[35]

Unsafe abortion[36] is a serious public health and social injustice problem, and is responsible for 13% of maternal deaths in the world. In general this occurs in countries with lower economic development indices, greater inequality of opportunity for education, health, access to cultural and material goods, among other human rights, all basic requisites for the exercise of citizenship. Such conditions, present in the majority of these countries, are not however the exclusive determinants of this problem. The occurrence of unsafe abortion in the world is strictly associated with countries' adoption of more restrictive legislation regarding individual liberties in general, and particularly women's autonomy and sexual and reproductive freedoms, increasing the risk of women dying or suffering from unsafe abortions.

It is common in Latin American countries, with restrictive legislation on abortion, to find the presence of conservative segments that act, before society and state institutions,

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[31] Ministry of Health, Secretary of Health Oversight. Brasilia. Saúde Brasil, 2006.

[32] UNICEF, OMS, UNFPA and the World Bank periodically evaluate these data and make adjustments to explain documented problems arising from insufficient reporting or classification errors for maternal deaths, and to develop estimates for countries that have no data.

[33] UNICEF, Report on the World Status of Infancy, 2009, Table 8, p. 146.

[34] On this subject, see reproductive health as conceived in the Cairo Action Program (item 7.2) and the Beijing Action Platform (paragraph 94) which comprises "a state of complete physical, mental and social well-being and not merely the absence of illness or disease, in all aspects related to the reproductive system and its functions and processes." Reproductive health includes the right of women and men to: a) enjoy a satisfactory risk-free sex life; b) procreate with the freedom to choose whether or not to do so, and when and with what frequency; c) information and access to safe, effective, and feasible family planning of their choice; d) access to follow-up services for risk-free pregnancy and birth, guaranteeing them the greatest possibilities of having healthy children.

[35] Adesse, Leila; Monteiro, Mario & Levin, Jacques. Grave problema de saúde pública e de justiça social (A serious public health and social justice problem). Rio de Janeiro: Fiocruz - RADIS Comunicação em Saúde (Health Communique) No. 66 February 2008.

[36] Unsafe abortion is a procedure to interrupt pregnancy, by persons who do not have the right qualifications, or in environments that do not meet minimum medical standards, or both conditions. In such cases, unsafe abortion can lead to serious consequences, such as hemorrhage, infection, depression and anxiety. (World Health Organization).

as organized groups, assumed to be religious, or otherwise. The theme of criminalizing abortion is a central one for reproductive rights and continues to be disputed based on religious and moral arguments, instead of supporting that aspect of public health that it deserves. Unsafe abortion represents a high risk to the life and physical and mental health of women. It is calculated that complications arising from unsafe abortion and lack of access to safe services are responsible for the annual rate of 67,000 deaths of women and an estimated 5 million women hospitalized annually to treat complications.[37]

In Salvador, for example, abortion has been the primary cause of maternal death for several decades.[38] The living conditions of women will determine their degree of vulnerability regarding maternal death and causes thereof that are deemed avoidable. Vulnerability will be a function also of the autonomy and capacity of the women to exercise their sexual and reproductive choices. On the other hand, the illegality of abortion in Brazil contributes to aggravate the risk of death and morbidity of women.

To change this reality of negating the reproductive rights of women in Brazil is the main challenge for realization of reproductive rights and proposals promoting equality of gender and race and social justice. Such equality is still far off from the daily lives of Brazilian women who cannot exercise their basic human rights: to live with dignity, have control over their own sexual and reproductive lives, and to choose whether or not to have children, if and when they want, and to interrupt an unwanted pregnancy without running health risks, risking their very lives, and moreover being considered criminals by the State.

[37] *World Health Organization. Unsafe abortion: global and regional estimates of the incidence of unsafe abortion and associated mortality in 2003. Geneva. 2007.*

[38] *Ministry of Health. 2005. Norma Técnica para Atenção Humanizada ao Abortamento (Technical Norm for Humanized Treatment of Abortion), Ministry of Health. Brasilia.*

The exclusion of young people and adults from among those considered having the right to education can also be seen in the more than 14 million people who still do not have access to literacy, which represents 10% of the total population. Since 1981 illiteracy fell 13.2 percent, a rate considered low. Contrast this with the high rate verified in the Northeast: 20% of the population.

Formal Education as a Human Right
Access, Quality, and Social Control

Mariangela Graciano and Sérgio Haddad[1]

Despite the right to education being more widespread than the right to attend school, this short article will focus on the conditions of access and length of attendance, quality, and social control of formal education in the last decade. Our reference point is the contemporary notion of human rights, characterized as universal, indivisible and mutually interdependent, demandable by society, justifiable and aimed at guaranteeing human dignity.

Access and Length of Attendance

In Brazil, the right to a formal education has been provided for by law from the Empire to today, and is included in the Constitution of 1988, and regulated by the Law of Directives and Bases (LBD) of 1996 and in the National Education Plan (PNE) of 2001.

Analysis of the conditions of access and length of attendance for public schools is related to the historical construct of those having educational rights and their social condition. Even though being included in the Constitution implies that the idea is guaranteed, at least for Brazilian citizens and their children, the reality is that an expansion

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Mariângela Graciano is the coordinator of Education Action's Education Watch

of the segments that are able to attend and stay in school is a gradual and unequal conquest, the fruit of civil society's mobilization.

Enrollment has increased at all levels and modalities of basic education in the last 20 years, but this expansion has not been universal, leaving out specific groups of the population.

Data from Observatório da Equidade (Equality Watch) (www.ibge.gov.br/observatoriodaequidade) indicate that children, youth, and adults who are primarily black, poor, rural dwellers, and the disabled continue to be excluded from school.

To illustrate this reality, note the situation of early childhood education. In addition to being very far from universal, the expansion of access has been accompanied by an increase of inequality between children of 0 to 3 years of age who are black/mixed and those who are white. In 2005, the degree of inequality was 2.9% and increased to 3.3% in 2006 and 4.5% in 2007.

The fragmentation of the notion of universality of the right to education can also be seen in its generational dimension. Even though the Constitution affirms its universal character, socially the access to schooling is considered a right only for children and adolescents. The education of youth and adults and of very young children has been pushed aside in public policies.

In 2007, under pressure from civil society, notably the National Campaign for the Right to Education, the federal government included early childhood education, high school and the education of youth and adults in the Maintenance of Basic Education Fund (Fundeb), that replaced Fundef, that was focused only on basic education for those between 7 and 14 years of age.

Despite being an undisputed advance of the Lula government over the Cardoso administration, the differentiation between the correction factors for values attributed to each level and modality maintain the negative discrimination, such that the allotment *per capita* for the matriculation of youth and adults and very young children is smaller than that given to regular basic education.

The precarious way in which these groups are inserted in basic education is reflected by the low level of education of the population. In 2007, the average schooling of the population 15 years or older was 7.3 years, despite schooling being required for eight. Among the urban population, schooling is 7.8 years while for the rural population it is 4.5 years. According to INEP data, if the actual rate of increase of schooling were maintained, it would take more than 30 years for the rural population to reach the level of the urban population.

The exclusion of young people and adults from among those considered having the right to education can also be seen in the more than 14 million people who still do not have access to literacy, which represents 10% of the total population. Since 1981

illiteracy fell 13.2 percent, a rate considered low. Contrast this with the high rate verified in the Northeast: 20% of the population.

Finally, there is the youth sector of the public. Considered to include persons between 15 and 17 years of age, among the 20% poorest only 24.9% were enrolled in high school, while among the 20% richest 76.3% attended this level of school. Despite the constant increase in enrollment in the Northeast and the reduction in the Southeast, for the same age group the rates are 33.1% and 76.3%, respectively. The ethnic-racial division demonstrates that only 37.4% of black youth have access to high school compared to 58.4% of white youth. For those that live in rural areas, only 27% attend high school compared to 52% of the urban population.

The big numbers and rates hide population specifics. Even though Brazil has advanced in legal landmarks that guarantee access for those with disabilities to the regular educational system, this inclusion is still new and uncertain. Resources to equip schools are lacking, teachers are not trained to attend to students, and, above all, there is still enormous prejudice in society that is reflected in the school environment, as we shall see below.

Such prejudice, translated into lack of policies and funding, is also responsible for the exclusion of the prison population from education rights. Of the close to 420 thousand people who make up this group, the official facts indicate that 18% study, even though there is not precise information about how and where they do this.

Quality

The quality of education is a topic of dispute. There are those that advocate that it should be oriented towards competitiveness in the job market. There are those that hope that school can meet all the needs of the students, including emotional needs; there is a group that hopes that school can form autonomous individuals; there are others that work so that it can become a space for exercising solidarity and collective construction of knowledge.

From the perspective of human rights, we cite the Universal Declaration of 1948, wherein article 26, with regard to the right to education, determines that this be "(...) directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms(...)" and , wherein article 27 guarantees that "Everyone has the right to freely participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits (...)"

The two articles carry with them important references, both with regard to the right to access to knowledge of the scientific process and cultural goods produced by humanity- what we can interpret as right to knowledge- and with respect to the ethical

role of the school to stimulate the full development of people, individually, and also in the exercise of a just coexistence in society.

In relation to the right to knowledge, the results of the two national exams show that we still have a long road ahead of us. An important part of this path is bound to the need to value the teaching career. In recent years, the profession of teaching has been strongly blamed for the low quality of education, when we know that the causes are many and linked. Studies have shown that the reasons for this fact are tied to the discriminatory nature of these accusations, because of the increase of poor and black women in the composition of this profession.

With respect to formal training, there are many challenges, and the theme of student violence or violence in the schools, that has gained space in the social debate, is a good measure of them.

Taking only the national news as a source, what has been called school violence has been a phenomenon restricted only to public schools. There is a perverse dimension to this journalistic practice, which is the criminalization of public schools – of its students and teachers.

The few reliable facts on the subject, disseminated[2] between means of communication, indicate that situations of conflict in the schools have a direct relation with manifestations of prejudice. Why do people fight or resort to verbal or physical violence? In general, everything begins with an offense based on prejudice.

In June 2009, research was released by the Ministry of Education and the Economic Research Institute Foundation (FIPE) that indicates a strong component of prejudice in the school environment.

The statistics strongly indicate a predisposition to not establish relationships with different groups. In the scale used, 0 is the predisposition to have closer contacts while 100 is to have the greatest level of distance.

Homosexuals are those from whom people want to maintain the greatest distance (72%), followed by those with mental illness (70.9%) and gypsies (70.4%). The other groups identified were those with physical disabilities (61.8%), Indians (61.6%), residents of slums (61.4%); the poor (60.8%), rural dwellers (56.4%) and blacks (55%).

The same study noted that the forms of discrimination have an inverse relation with learning, or to put it another way, the more discriminatory the environment, the less the students take advantage of learning.

The results of this study reflect a Brazilian society marked by stereotypes that reflect themselves in various institutions.

[2] *Boletim Ação na Mídia (Media Action Bulletin) (30 April 2009 and 18 May 2009), available at www.observatoriodaeducacao.org.br/acaonamidia, accessed on 25 July 2009.*

There are two dimensions to the problem of overcoming the diagnosed situation. The first is related to the development of a process of social valorization of the school space. To such end it is necessary to positively support both students and teachers, guarantee the operational conditions of the buildings, including the training of professionals who feel able to act in situations of conflict; to promote the production of knowledge as an experience at the same time intriguing and united, shared between different people who are different, yet equal in their human condition.

The other dimension goes beyond the school environment, or educational policies. It has to do with the responsibility that society in general, and public power in particular, has in the building of a culture of peace, only viable in a society that guarantees the rights of all of its people.

Social Control

Throughout the last decade, civil society has achieved some interesting experiences in monitoring and enforcing educative rights. Among those we take note of the *National Campaign for the Right to Education (*www.campanhaeducacao.org.br) that brings together NGOs, unions, and social movements and has as one of its focuses the securing of adequate funding for education; the Dhesca National Report Project *(www.dhescbrasil.org.br)* that since its formation in 2002 has maintained a national report on the human right to education that collects and investigates claims, providing recommendations for overcoming same, and the NGO Ação Educativa (Education Action)'s *Education Watch (www.observatoriodaeducacao.org.br)*, that seeks to focus on the media's coverage of education, to make it more just through diversifying sources, production and dissemination of information.

With much euphoria and no practical effect whatever, the Statute on Racial Equality was approved and acclaimed as a great accomplishment. Approval of the Statute, after more than ten years of debates, reveals that it was transformed into currency for the party-line game. That is, it transformed a major part of the Constitution— self-determination—into just another means of guardianship, distancing itself from a transforming perspective.

Race Relations in Brazil

Sandro Silva[1]

"It would be better to create a law repatriating those with dark skin to Angola. Since their ancestors were forced to come to Brazil, there would be nothing more just than to return them to their homeland, since they suffer so much here. In Africa they wouldn't be miserable anymore." [Internet user opinion after approval of the Statute on Racial Equality in September 2009]

The big advance is that it [the Statute on Racial Equality] *is not going to create conflicts.* [Minister Edson Santos, after approval of the Statute on Racial Equality in September 2009]

These two ways of considering race relations in Brazil synthesize the perceptions on the subject and, although recent, are contemporaneous with the 19th century debate. Both statements are ways of denying the right to be different, based on a colonial perspective of the state which, founded on equality, historically reserved public policies for determined groups within the country. What is noteworthy is not the opinion of society's conservative sectors, but the way in which the State has shown itself to be incapable of distributive policies, such as in the case of populations differentiated by race and ethnicity.

My anthropological perspective tries to understand how determined groups and individuals construct their ways of acting and thinking. Words, concepts and practices are, for anthropology, collectively produced symbols in constant dispute, since they are the result of these differentiated ways of comprehending reality. Thus, "race relations"

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can be understood as a field in dispute between different actors, and not as an objective fact. If modern science denaturalized race relations – affirming that biological race does not exist – part of society takes pleasure in naturalizing equality – affirming that all are equal, even as the figures on inequality continue putting the lie to any Human Rights perspective.

The objective of the debate on the race issue in the country lies in verifying whether race exists or not, diverting the focus from the effects of racial discrimination, which are evident and already demonstrated in innumerable studies. It has been erroneously affirmed that if racism does not exist in the country, there is no reason to ensure specific policies against the marks of racism. On the other hand, social movements constantly affirm that if race is a social construct, its damaging effects can be counteracted by affirmative policies resulting from a truly egalitarian society.

The objective of my text is to present two moments in which race became the central discussion in Brazilian social thought. The first relates to the nonexistence of post-abolition public policies. The second coincides with the contemporary forms of registering race in public policies. I take as a paradigm the approval of the Statute on Racial Equality, of September 2009, as a symbol of how distributive policies are appropriated by the political game between the government and interest groups. I presuppose firstly the incapacity of the Brazilian elite to recognize a multicultural society, and secondly the vitality of social movements in guaranteeing important representational spaces and agendas.

A Brief Sketch of the Racial Question in Brazil

The concepts about race in Brazil begin with international pressure for modernization. Prohibition of the slave trade, the Land Law, the Free Womb Law, the Sexagenarian Law, and Abolition are facets of the same coin, by which the country negotiated its idea of a people/nation with internal and international interests. Substitution of slave labor in agriculture in the 19th century represented an opportunity to disseminate the perspective on the dangers of racial mixture. The argument was simple and direct: it would be necessary to exchange the mixed blood of the people, seen as lazy and indolent, for the paid labor of free workers. Two alternatives were, then, sketched by the State. The first alternative involved filling ships with Africans and returning them to Africa. The second possibility, the policy of incentives for European immigration, would put an end to the noxious genetic traces of the mixed-blood population (due to intermarriage) and get rid of the trace – black and indigenous – considered to be the reason for national backwardness.

While the first eugenic solution was not officially put into practice, the second became part of government efforts by means of various actions which coupled incentives

for immigration with the formation of colonies of Europeans in Brazil. Darwin's theories on the survival of the fittest at his time took on a "social meaning" which considered it natural to eliminate the mixed blood trace, seen as weaker, by introducing the "stronger" blood of European settlers. Social Darwinism certainly achieved a singular version in the Brazilian case, given that the population arising out of slavery and the indigenous population had no place in public policies, since they were seen as inferiors who would "naturally" disappear over time. But the political organization of slaves and other pro-abolition organizations had woven for some time the concept of liberty into the Black Atlantic by means of civil and religious organizations, putting forth again the question of incorporation of the black population in the country, and leading to the collision of various projects regarding liberty and citizenship silenced by the eugenicists.

Post-abolition represented silence for the population coming from slavery in terms of public policies, and the reinvention of the place of race in the scenario of the nation's constitution. With Getúlio Vargas, the theme of rationalization of social relations again came to the fore for the valorization f the country as mestizo. Years later by means of restrictions on populations considered to be Italian or German during World War II, and the construction of a discourse that attempted to included the population previously seen as mixed and degenerate, as "the national" population. On the other hand, the State strengthened the image of a created nation with the Republic favoring, by means of Decree No. 7967 of 1945, "the need to preserve and develop, in the ethnic condition of the population, the most suitable characteristics of its European ascendancy." The reflex in Brazil to re-ethnicize European groups led to the hegemony of the image of a mixed society and, consequently, to the invisibility of the Black presence, and romanticizing the indigenous populations in the country.

Race in State Policies

The image that Brazil is made up an amalgamation of blood types, of biological arrangements and combinations that make impossible any distinction between blacks, Indians, and whites, is an argument of the conservatives that is as seductive as it is false. While the ethnic differentiation celebrated by European and Asian cultures is synonymous with social peace, claims by black and indigenous groups are treated as if they were incapable of being suitable for the Brazilian nation. The denial of these effects is a form of violence against those populations that suffered from discrimination.

Currently, "race" has operated as a sociological and political category that allows social movements to understand the forms of registering difference, as well as identifying inequalities in the social, ethnic, class, and gender framework. From the political point of view, to deny the construction of difference is a form of fixing cultural content in an

archaic perspective that maintains a petrified image of blacks and indigenous peoples in Brazil, seen either as slaves or lazy, or as individuals incapable of organizing their specific demands. Throwing the demand for racial rights in the great cauldron of miscegenation was a way for the racist hegemony to operate in silence, and to benefit from the State's guardianship policies. The hegemony of the whitening plan can be seen as a form of racial superiority.

The ideology of miscegenation, the Afonso Arinos Law, and the Statute on Racial Equality, recently approved, do not constitute a response to a simple question: why do black and indigenous populations, in most cases, live in economic and educational conditions that are worse than those of whites? Firstly, because racial quotas in the universities, although a success in more than seventy Brazilian universities, are still seen as an attack on the Brazilian elite's plans for reproduction, and secondly, because the quotas threaten the forms of schooling which it is desired to retain for the black and indigenous population. It really is an enigma how democracy is thought of by anti-quota intellectuals, since up to now the elites have not given a political and economic response, much less furnished a plan for overcoming inequality other than guardianship or subordination of millions of people.

With much euphoria and no practical effect whatever, the Statute on Racial Equality was approved and acclaimed as a great accomplishment. After more than ten years of debates, it reveals that it was transformed into currency for the party-line game. That is, it transformed a major part of the Constitution—self-determination—into just another means of guardianship, distancing itself from a transformative perspective.

The definition of conflicts for access to public policies as "class conflicts" is not translated into differences of race and gender. On the other hand, the universalism of equality cannot be transformed into a barrier to the intelligibility of the means by which different social groups express their visions.

Self determination is still a challenge for the elites

The post-abolition effort for black and indigenous populations was to reconstruct their lives under totally adverse conditions. The privileged instrument for this was self-determination which, throughout history, was incorporated in international Human Rights instruments. To be "master of oneself" and "not give away a day of work" are more than expressions of the status of autonomy that black and indigenous populations constructed, and can be seen in the forms of inscription of liberty developed alongside the forms of access to land. On rejecting liberty and self-determination, the Brazilian state's colonial policies meant nothing more than rewriting pre-capitalist practices, feeding the specter of racism that flourished among the Brazilian elites.

The principle of self-determination does not fit within a hierarchical and racist society, since such tries to register difference as an objective reality that must be abstracted from social life. To pretend a society is homogeneous is a mistake that has carried us violently to real inequality of opportunity. It is necessary to search for equality for all, and not for a privileged group.

The image that the nation's progress would redeem 350 years of black slavery failed. The population that calls itself black still occupies the worst jobs, receives the lowest wages, has the least education, as well as being the sector most murdered by the State. Racially discriminated populations are bypassing the hidden intolerance of the discourse on racial democracy with affirmative actions, and making their identities visible. The indigenous peoples, condemned by governments to disappearance, have shown themselves to be reinvigorated.

But affirmative action policies are still a challenge in Brazil. When Indigenous and Black people affirm their rights to traditional territories, they are considered "enemies" of the nation. The exclusion of land rights in the Statute on Racial Equality can lead us to important roadways for future campaigns in the field of Human Rights. The association between territory and identity caused a resurgence of the debate on nationhood, which has already been discussed with the process of demarcation of indigenous lands. It is assumed that the indigenous populations are under guardianship and, therefore, it falls to the State to guarantee their physical and cultural reproduction, based on the idea of "traditionally occupied land." With the *quilombola* (rural Afro-Brazilian) populations, there was an attempt at homology between territoriality and ethnic identity. This approach would support social and cultural autonomy against the predatory logic of appropriation, which is in the nature of large land holdings, agribusiness and large infrastructure projects. In addition, Ratification of Convention 1698 of the International Labor Organization inaugurated a new framework for comprehension and application of human rights in Brazil.

The fight for equality happens every day

Equality of opportunity is a common objective to confront the historical effects of racial segregation. The Brazilian state attempted to create a homogenous country, when its cultural and social diversity points to a multiplicity of historical experiences, even among the populations that are supposed to be homogenous. The experience of inclusion by means of assimilation, and the ideology of *mestizaje* are questioned today.

Currently, social movements are building a new perspective and a new idea of a "nation". There is much to learn from affirmative actions, individuals and collective identities on Brazilian society, given that this process is a reflection of the broadest social and historical relations that challenge us daily to understand the construction of equality.

The big news of this decade is the realization of the First National Conference on Communication (Confecom). Although rife with contradictions and suffocated by the traditional concept that civil society has constructed regarding official conferences in other fields, Confecom is a very new element that has shown itself to be a strong stimulus for mobilization and debate on the country's communication problems. In other words, it served to promote the right to political participation in the decision-making processes in the sector, a principle inherent in any human right.

The Human Right to Communication in Brazil: The balance over a decade (1999-2009)

"One step forward and you're not in the same place anymore." Chico Science

Rogério Tomaz, Jr.[1]

1. Presentation:

The present text is a modest contribution from Intervozes – Brazil Social Communication Collective to the debate regarding the Brazilian context for what we understand as the human right to communication. In no way is it intended to exhaust any discussion about the subject themes, nor to promote a single or predominant vision with regard to same. Rather, it tries to present a possible balance on the right to communication, prepared from the world view and trajectory – as brief as it is intense – constructed by our Collective. The agenda of the Social Network for Justice and Human Rights is very important and constitutes a reference for the debate on human rights in Brazil. We hope that this text stimulates the debate on communication problems and we welcome dialogue.

[1] *Rogéerio Tomaz Jr. is a journalist and member of Intervozes – Brazil Social Communication Collective*

2. Major Victory – Acknowledgment

The 1990s, in the field of Brazilian communication, were marked by the delivery of the telecommunications system – a public patrimony forged over decades – to private groups, chiefly foreign ones.

Alongside this process, we had the arrival of the Internet (and its accelerated development), cable TV (and similar services) and other technologies forthcoming from the "information revolution," through events tied to (and led by) market demands.

For anyone analyzing the sector from the perspective of political and social problems, putting such analysis within the context of the struggle for democratization of communication, the great victory occurred in 1998, with approval of Law 9.612 that still today regulates community broadcasting.

The law signified (and still signifies) formal, legal acknowledgment by the State of a political and social phenomenon that had emerged at least three decades prior: free or popular community radio stations. Using legal language, this is a classic example of material sources generating formal sources. In basic politics: the struggle forged the transformation, with the radios begun in the communities stopping running from the police in order to run after the bureaucracy that liberated them from their status as illegal "pirates."

As is known, the radio broadcasters continue to run from the net of repression – these days commanded by both the Federal Police and the National Telecommunications Agency (Anatel) – and they fight to correct distortions of the law (and later decrees) that made it more of a legal straightjacket than a political emancipation. But it cannot be denied that the norm published in the Official Daily of February 20, 1998, constituted a landmark in the promotion of the human right to communication in Brazil.

However, in those years no one thought about communication as a "right." Much less a "human right." What was talked about was freedom of expression, the right to information and even the link between such concepts, but no one used the term "right to communication."

Today, looking at the rearview mirror of recent history, we can say that recognition of this concept – in its political and legal dimensions – on the part of innumerable actors in civil society and public power, may be the most important advance in the struggle for the human right to communication in Brazil.

It should also be said that inclusion of this article in the present Report is proof of this.

The debate on the "right to communication" in Brazil was initially brought about – or resumed – by Profesor Murilo César Ramos, from the University of Brasília (UnB) in mid 2001, in a short article[2] contributed at the reformation of the National Forum

[2] *RAMOS, Murilo Cesar. Comunicação, direitos sociais e políticas públicas (Communication, social rights and public policies). Available at: http://www.wacc-al.net/libros/librodireitos/capitulo10.pdf*

for Democratization of Communication (FNDC) – curiously, one of the political actors in the progressive camp of civil society that had the greatest reluctance and was most at variance with regard to the concept of the human right to communication.

After the hard battles around drafting the "Cable Law" (Law No. 8.977/95) the FNDC entered into a period of political reflux and social demobilization, from which it began to recover at the end of 2001, with its VIII National Plenary Meeting. The text by Professor Murilo Ramos – in his own words a "reporter on communication policies in Brazil – recaptured some ideas from the 1960s and 1970s, in the context of discussion of the New World Information and Communication Order (NWICO) at UNESCO, although the first international reference to the concept may be quite a bit earlier, in 1946, even before the drafting of the Universal Declaration on Human Rights (1948)[3]. In the article, Ramos cites the MacBride Report[4] and theorists such as Jean d'Arcy, one of the pioneers in defining the little spoken of "right to communication." In addition, Ramos always cited the essay "Extension or Communication" by the educator Paulo Freire, as a foundation document that traced the bases on which we should think about the right to communication.

Two years later, in 2003, Intervozes – Brazil Social Communication Collective[5] formally came into being, an entity dedicated to advocating for communication as a human right, essentially at the same time the "Communication Rights in the Information Society" (CRIS) campaign gained impetus, which added dozens of entities to its Brazilian section prior to disbanding several years later.

In August 2005 the I National Meeting on Human Rights was held in Brasilia (DF), with the theme of "The Human Right to Communication: one world, many voices," an allusion to the MacBride Report, which was then celebrating its 25th anniversary. More than five hundred human rights activists from all over Brazil debated the guidelines normally restricted to the agendas of entities and networks in the communication field.

At that time, besides Murilo Ramos, other renowned and expert intellectuals in the field of communications in Brazil were devoting themselves to reflection and discourse about

[3] UN Document from 1946, cited, without reference to the title, in justification for Proposed Constitutional Amendment (PEC) 64/2007, which proposes including communication in Article 6 of the Federal Constitution, wherein "social rights" are listed. The cited document affirms "the transverse importance of communication for development of humanity, while a fundamental human right – in the sense of basic – due to being the touchstone for all liberties to which the United Nations is dedicated, an essential factor in any serious effort to promote peace and progress in the world." PEC 64/2007 is available at the Chamber of Deputies website: http://www.camara.gov.br/sileg/Prop_Detalhe.asp?id=351608

[4] UNESCO. Many Voices One World: communication and information in our age. Originally published in 1980 (1983 in Brazil), the polemics surrounding the document contributed to the US and England leaving UNESCO in 1984.

[5] In 2007 Intervozes launched Communication Rights Watch (www.direitoacomunicacao.org.br), a web portal dedicated to informing and stimulating debate about communication. In addition, in partnership with various researchers and institutions, such as UNESCO, it is developing a project aimed a preparing indicators for monitoring the realization of the human right to communication.

the Human Right to Communication. Among these figured Venício Arthur de Lima, Cicília Peruzzo and José Marques de Melo, to cite only three of the most well known.

Today the Human Right to Communication is much more than a symbolic principle or theoretical concept. In addition to its incorporation in academic work and the political discourse of activists, organizations and networks, the National Congress is considering a Proposed Constitutional Amendment (PEC) to include communication in the list of items in Article 6 of the Constitution, which lists social rights. At the moment, the PEC was approved in the merit commissions and awaits only the creation of a special commission to conclude its consideration prior to voting in the full Chamber. It is hoped that it will be approved in 2010.[6]

More than a formal question, insertion of the Human Right to Communication in the Law strengthens, legally and politically, all the fronts of struggle for democratization of communication. This is because the rights under Articles 5 and 6 of the Constitution must be applied immediately, a principle that encourages and favors civil society and, consequently, action by the Public Prosecutor's Office, of which we will speak more below.

This formal acclaim, therefore, besides putting the finish touches on political and social recognition of communication as a human right, interfering with the roots of our culture, will serve to pave the road for other battles underway or to come.

3. New Political Actors:

In the last ten years another element of great importance in the context of promoting the Human Right to Communication has been the constant incorporation of new social actors in the debates and struggles over communication policies.

Among the "organized" actors, formed by "organic" (permanent) entities, institutions and activists that normally act in other fields, special mention should be made of human rights organizations and networks. These were perhaps the first from outside the communications field that saw (and assumed) the strategic and central nature of this sector with regard to contemporary political struggle. This is in large part owing to the type of world vision that the human rights perspective has embedded in its principles: universality, interdependence, comprehensiveness, indivisibility, and progressiveness in the realization of rights.

There are other fields and social actors who have also joined in the communications fight: the peasant movement, the health movement, the feminist and race-related movements, among many others.

[6] It must be said that the "media bloc" is one of the largest and most influential in Congress. Several studies attests to the concentration of a large number of radio and TV stations in the hands of legislators, which damages Article 54 of the Constitution and creates the phenomenon known as "coronelismo eletrônico"(a variant of clientelism), one of the major obstacles to democratization of communication.

The Landless Workers' Movement (MST), for example, was greatly involved at the National Front in promoting a Democratic Digital TV and Radio System,[7] with one of its principle leaders stating – not without some exaggeration, which is also indicative of the Movement's inclination to carry the flag – that the struggle for adoption of a democratic digital TV model for Brazil was as important or more important than the struggle for agrarian reform.[8]

In the health field, the invitation in August 2007, by the National Health Council (CNS), through its Intersector Health Information and Communication Commission (CICIS), for Intervozes to join the organization, was symbolic. The health field – besides, like all other fields and actors from civil society – is known for the merely instrumental use of communication for implementing its public policies. But the invitation truly represents the broadening of thinking about the strategic centrality of communication in present times. Coming from an organization like CNS, which has seven decades' experience in constructing concepts and practical experience with regard to public policies that promote rights, such an invitation – promptly accepted and converted into dialogue and partnership – is a truly significant occurrence.

Examples of actions in other fields are innumerable: creation of the Women and Media Network,[9] which discusses questions related to women vis-à-vis the means of communication; demonstrations at the national level repudiating the "campaigns" of TV Globo against the quilombola peoples; monitoring by human rights organizations and those protecting the rights of children and adolescents, of television content, including advertisements, that violate those rights, among many others.

To add to the civil society movement as reinforcement for the struggle for democratization of communication, during the last decade the Public Prosecutor's Office has entered on the scene with good will – many times, it should be noted, as the result of claims by civil society.

Above all based on the actions of the Federal Prosecutor of Citizenship Rights – an entity specifically aimed at the defense and promotion of human rights – and its Work Group on Social Communication[10], the Public Prosecutor's Office is now considered a permanent and active ally in the arguments with those sectors (within the State and in civil society) that are tied to hegemonic political and economic interests, that see communication merely as a business or as a service that should be offered based on market logic.

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[7] *Network of dozens of national entities that sought to influence the process that defined the course of establishing digital TV in Brazil. More information at: http:// www.frenteradiotvdigitaldemocratica.org*

[8] *Statement by João Paulo Rodrigues, of the National Directorate of MST, during the II Brazilian Social Forum, held in Recife (PE) in April 2006.*

[9] *More information at: http://mulheremidia.org.br*

[10] *More information at http://pfdc.pgr.mpf.gov.br/grupos-de-trabalho/comunicacao-social/apresentacao*

The work of the Public Prosecutor's Office – always in partnership with entities from civil society – provided some major victories over political actors that, in the commercial media, were (and still are) transformed into *non actors* or illegitimate actors, by means of the most diverse tactics:[11] invisibility by means of pure and simple censorship; distortion of positions and actions; taking things out of their historical context; focus on non-central aspects of these actors' objectives, etc.

Some of the Public Prosecutor's Office's initiatives:

- Public civil suits that have prevented religious intolerance and defamation, practiced by TV broadcasters linked to evangelical religions against Afro-Brazilian religious sects;[12]

- Victorious public civil suit against Rede TV! and its presenter João Kleber, for violation of rights on the program "Tarde Quente" ("Hot Afternoon"). The suit arose within the context of the campaign "Quem Financia a Baixaria é Contra a Cidadania (Anyone Who Finances Vulgarity is Against the People)"[13] and resulted in the series Rights of Response, with thirty episodes dealing with diverse human rights, aside from the unprecedented act by which the antenna of the broadcast generator, in São Paulo, was shut down for not complying with the judicial order, remaining off the air for twenty-five hours;[14]

- Public civil suit against the Ministry of Communications, for tardiness in attending to the demand for authorizing the operation of community radio stations. The measure arose following a claim sent to the OAS in 2004, by several entities, pointing out the slowness encountered with regard to the demands of community broadcasters. The Federal Public Prosecutor's Office demanded greater speed by the Ministry of Communications in analyzing cases and conceding authorizations to broadcasters, suggesting that these could function anyway if they didn't have a response from the Ministry within eighteen months. The suit was also against Anatel, spearhead of the persecution of community radio stations. Up to now, the Ministry of Communications has not complied.

These are only some examples. The Federal Public Prosecutor has followed and participated systematically in all the great debates in the field of communication policies, always in dialogue with those entities from civil society that defend democratization of communication and the right to communication.

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[11] Innumerable works speak of such "techniques." Two of the most interesting and well known are the "Large Press Manipulation Standards" by Perseu Abramo, and "On Television" by Pierre Boudieu.

[12] Examples can be found at http://mundoafro.atarde.com.br/?p=494

[13] The campaign is an initiative of the Commission on Human Rights and Minorities of the Chamber of Deputies and its coordination is composed of various entities from civil society. More information at : www.eticanativ.org.br

[14] More information in the publication on the episode: "Society occupies TV: the case of Rights of Response and public control of the media," available at the Intervozes site (www.intervozes.org.br).

4. Hegemony Of The Market – Solid In The State, Shaken In Civil Society

Throughout recent years, principally with the expansion of the Internet, both in terms of coverage and of the devices created, another political-social phenomenon has modified the communication scenario in Brazil: the relative loss of importance of the "large media" with the expansion of the sources of information available to society in general.

The explosion of blogs and similar tools[15], the intensive use of related devices and networks, mass distribution and sharing of content for both entertainment and information via the Internet, as well as the economic crises that have shaken "traditional" communications media, added to innumerable factors from the political scene[16], have created a relative immunity to the "large media" with regard to public debates.

In spite of resistance to, and open attacks on, the hegemony of the groups that command the conventional media, the result of practically all the battles relative to communication policies, within the scope of the State, have been favorable to the positions taken by the pro-market actors and against the human right to communication.

The trend toward digital TV and radio (in this case still undefined), subscription TV, telephone; digital inclusion; regulation of advertising, access to information, are as a rule favorable to the business oligopolies of the various sectors.

In other words, the debate on ideas – which took on a different shape with the emergence of the Internet and which has slowly and relatively seen a reduction in the abyss separating the political actors and the "arms" at their disposal – has not bent over backwards toward making changes in the correlation of forces in the disputes within the State.

5. Final Considerations – Current Advances, News, Undefined Scenario:

With regard to the growing recognition of the Human Right to Communication within civil society and the State in the last decade, there is still resistance and differences of opinion.

Some, coming from a political-ideological viewpoint linked to the Marxist left, consider the idea of human rights to be a purely "liberal" banner[17], as criticized by Karl Marx in

[15] A process that has caused a change in the paradigm, including with regard to how the traditional media relates to its "users," who have come to be seen as potential collaborators (or content producers) and not merely consumers. We believe this is directly tied to experimentation by citizens relative to the possibility of directly exercising their human right to communication, having awakened to the idea of having the status of having rights.

[16] For example, the bitter battle for audiences (and also for symbolic and economic capital) between Rede Globo and the Record Group; the muffled conflict between radio broadcasting companies and telephone companies; the party political disputes that more than ever involve means of communication taking particular positions, among other factors.

[17] In this case, the classic liberalism matrix that grants the individual (and his liberties, especially economic ones) prevalence over collectivity and social rights. In the field of human rights, it should be noted that this debate was argued intensely during the Cold War between the two antagonistic blocs: with the capitalist countries defending the primacy of civil and political rights over economic, social and cultural rights, while the socialist block defended basically the opposite.

texts such as "The Jewish Question" and others. This type of criticism, out of step in terms of time and contemporary political and legal reality, occurs not only in the field of communication, but also in other trenches where human rights organizations are struggling.

On the other hand, the differences are related to the supposition that communication companies are the representatives of and spokespersons for society in the exercise of freedom of expression and provision of the right to information. Any concept that has as its prerogative the full and effective political participation of society – as the Human Right to Communication presupposes – is attacked. Examples of this occur almost daily. Any attempt at regulating or even monitoring a communications sector or service in which the market is involved is disqualified by the "large media" and its spokespersons as being censorship, violation of the right to expression, authoritarianism, etc. By way of example, we can cite the attempts at regulating commercial advertising, implementing indicative classification standards (provided for constitutionally), creating a corporate council for regulation of journalists. All were (and are) attacked with unwarranted virulence, even when being debated in the institution created just for such purpose: the Legislature.

In spite of resistance, we see current and important advances related to the promotion of communication as a human right, although such initiatives may not explicitly acknowledge this concept in their stated objectives.

The creation of the Empresa Brasil de Comunicação (Brazilian Communications Company) (EBC) and, in particular, of TV Brasil, above all reinforces the fight for implementation of a public communications system that until now has been nothing but allegorical reference in the Constitution and wishfulness in civil society.

Digital inclusion policies have advanced timidly, but the debate (and some current actual experiments) around same – even more so in view of the possibility of an unexpected and consistent cycle of economic and social development – has left openings for their adoption as a State strategy, not only as government policy. At the moment, for example, the "National Broadband Plan" is under discussion with the Ministry of Planning, and not the Ministry of Communications, historically considered as the governmental broadcasting office.

The big news of this decade, however, is the realization of the First National Conference on Communication (Confecom)[18]. Although rife with contradictions and suffocated by the traditional concept that civil society has constructed regarding official conferences in other fields[19], Confecom is a very new element that has shown itself to

[18] *More information at: http://www.proconferencia.org.br and http://confecom.com.br*

[19] *In summary, official conferences have historically served almost as "affirmative action" so that counter-hegemonic political actors (in this case, not linked to the business sector) can express their ideas and proposals for public policies before the State. In the case of Confecom, the privileged (and over-represented) presence of business interests was not characteristic, although a good part of the actors from civil society involved in the process do not see this as problematic, for example, the group of delegates at the conference was distributed as 40% civil society, 40% communications firms, and 20% public power (government).*

be a strong stimulus for mobilization and debate on the country's communication problems. In other words, it served to promote the right to political participation in the decision-making processes in the sector, a principle inherent in any human right.

Although a conference may be old news for various actors in the communications field, Confecom took place in 2009, , its convocation being made public in April, three months after the public announcement by President Lula during the World Social Forum in Belem (PA),

The battle for its realization intensified starting in 2007, with the creation of the National Pro-Communications Conference Commission[20] which brought together a group of quite heterogeneous actors for the common purpose of effecting a conference convoked by the Executive Branch from the perspective that its results and commitments could expect greater ease of subsequent incorporation and implementation.

The Confecom process will involved thousands of people throughout Brazil, a number which will be that much greater if there is time for its organization and a greater willingness on the part of the Ministry of Communications[21] to mobilize the financial, human and material resources of the government for that purpose.

Independently of any fact, the Post-Confecom outlook is uncertain. However, without a shadow of a doubt, its realization signifies a new scenario for the fight for the human right to communication in Brazil. Definitively, we will not come out of this untouched. Changes are due.

[20] *CNPC site: http://www.proconferencia.org.br*

[21] *The Ministry of Communications, since 2006, has been run by Senator Hélio Costa PMDB-MG), an ex-employee of Rede Globo who has no compunction about defending the market point of view, especially the agenda of broadcasting companies.*

IV – INTERNATIONAL POLICY AND HUMAN RIGHTS

World Social Forum

At the moment, the greater part of Brazil's responsibility for global climate changes still is due to modifications in land use. According to the National Inventory of Sources of Emission of Greenhouse Gases, prepared by the Ministry of Science and Technology, the felling of forests, burns, degradation of ecosystems, ranching and agriculture are the activities that most contribute to global warming. The importance of modifications in land use is not only owing to the quantity of carbon that can be released into the atmosphere during a burn. The conservation of forests and of fertile land bears a direct relationship to protection of the water table, the flow of water, the rain regime, the capacity for cooling the atmosphere, maintaining biodiversity, protecting the soil and recycling of nutrients, among other aspects.

Weather and Climate

Sérgio Dialetachi[1]

Although global climate changes have received greater attention in recent years, studies and claims about these changes have been a concern of government, scientists, and environmentalists for more than three decades. In truth, a series of varied phenomena, with very diverse origins and implications, caught the attention of the international community with regard to what was happening in the atmosphere.

In the 1970s there was a great deal of discussion of 'islands of heat' in large cities. The impermeabilization of the ground with concrete and asphalt, the erection of veritable mountains of buildings, the simultaneous operation of innumerable machines and pieces of equipment, the reduction of green areas, and the launching into the atmosphere of a 'cocktail' of pollutants generated by motor vehicles are some of the factors that modify the manner in which the wind circulates and the sun's heat is retained in the walls and roofs of buildings at different points in the same metropolis. Even with a reduced influence on only the microclimate of a determined city or region, the islands

[1] *Sérgio Dialetachi is a consultant on energy and climate change with the Heinrich Boell Foundation.*

of heat alter the air's humidity, the wind force and the location, frequency and intensity of the rain, among other effects.

Discovered in 1974, the "hole in the ozone layer" was another subject that began to be concern around the world. The emission of fluorocarbons or CFC gases, used in aerosols, refrigerators and air conditioners, caused the disappearance of a part of the atmospheric layer that protects us from infrared solar rays.

However, while studying what was happening in the planet's skies, scientists came across another phenomenon: the greenhouse effect, caused chiefly by the burning of fossil fuels (coal, petroleum and natural gas) for the generation of electricity and heat, and to move means of transportation. Thus, the first international group of specialists to look for solutions to the problem was created in 1986. Two years later, that initial group was expanded, forming the Intergovernmental Panel on Climate Change/IPCC.

In 1992, the recommendations of the more than 2,000 IPCC scientists were debated at the United Nations Conference on Environment and Development/Earth Summit, held in Rio de Janeiro. During ECO-92 the text was proposed for the Framework Convention on Climate Change/UNFCCC, signed by more than 190 countries. With the objective of stabilizing the concentrations of those gases that cause the greenhouse effect at levels that do not endanger the climate system, UNFCCC established commitments for all countries, based on "common, but differentiated, responsibilities," and went into effect in 50 countries in 1994.

UNFCCC follows the model for organization of other conventions. Year after year, Conferences of Parties/COP are held, when all the signatory countries meet for deliberations. Between one COP and another, there is an intense series of rounds of discussion, meetings of specific working groups, and Meetings of Parties/MOP. To help in the decision-making, Subsidiary Bodies for Implementation/SBI were created and Subsidiary Bodies for Scientific and Technological Advice/SBSTA, in addition to the Global Observing System/GOS. The sequence of pompous names and acronyms extends to the formation of interest blocs. For one to have an idea of the complexity of these compositions, we cite the European Union/EU, Countries with Economies in Transition/EIT, Organization of Petroleum Exporting Countries/OPEC, Economic and Social Commission for Asia and the Pacific/ESCAP, the bloc formed by Central Asia and the Caucasus, Albania and the Republic of Moldova/CACAM, Alliance of Small Island States/AOSIS, the Group of 77 and China, Group of Latin American and Caribbean States/GRULAC, the coalition of Japan, the United States, Switzerland, Canada, Australia, Norway, New Zealand, Iceland, Mexico and South Korea (JUSCANZ), the Umbrella Group (Japan, the United States, Canada, Australia, Norway, New Zealand, Iceland, Russia, and Ukraine), the Least Developed Countries (LDCs), in addition to Observers.

In 1997, the UNFCCC had already been ratified by 187 of its signatory countries, when the third COP was held in Japan, at which the text was proposed for what is now known as the Kyoto Protocol/KP, establishing objective and progressive goals for reduction in greenhouse gas emissions (GHG). The Protocol defined a period for fulfillment of commitments (2008/2012), a reduction goal of about 5% (calculated in relation to 1990 emission levels), division of signatory countries into developed (always cited as Annex I) and those under development (Non-Annex I), and creation of "Flexibilization Mechanism" – arrangements that allow a country to meet its emission reduction goals by means of projects within the territory of other countries. However, due to the resistance of the United States and some other countries to accepting emission reduction goals, the Kyoto Protocol only took effect in 2005.

COP-13, held in Bali in 2007, had as its mission finding an international system to succeed the Kyoto Protocol. The Road Map drafted at the meeting in Indonesia includes the definition of which countries must reduce their greenhouse gas emissions and when (Shared Vision), what measures and policies are necessary to avoid emissions (Mitigation), what efforts must be made in view of the irreversible consequences of global warming (Adaptation), how the dissemination of knowledge will be accomplished and how existing, viable solutions will be made available to less developed countries (Transfer of Technology), and how to support the most threatened or affected countries (Financial Support). However, although the words seem to show solidarity and international cooperation, the fact is that UNFCCC negotiations continue to be divided between the "realism" and "liberalism" diplomatic schools. For the realist diplomats, the world lives in an environment of international anarchy, without the existence of any mechanism or entity that can enforce decisions made in concert. Thus, sovereignty and national interests prevail. The Environment, in diplomatic realism, has low political importance, bears little relation to the States themselves, and offers major uncertainty regarding "profits." The realist vision of the world is extremely conservative, showing very little solidarity, and is generally based on the use of force. Whereas liberalism is based on organized societies and on individual and collective rights. It believes in a complex interdependence, with a multi-faceted agenda and diverse channels of communication. Its posture is one that is more negotiating and less dependent on the use of force. However, liberal diplomacy errs in its excessive defense of "standardization," privatization and commodification (transformation of natural assets into "merchandise" for which a price can be set and which can be sold: water, air, biodiversity, traditional knowledge, etc.).

Thus we come to COP-15, in Copenhagen, in December 2009, with negotiations divided into two uphill roads: one that deals with the establishment of new goals for greenhouse gas emission reduction for developed countries, valid for a second period

for fulfillment of commitments under the Kyoto Protocol (beginning after 2012), and one that attempts to implement the plans drafted in Bali. Urgent approval of a new international regime for the UNFCCC is pressing, since such will still have to be discussed and ratified by the signatory countries' legislatures before it goes into effect.

Although the majority of developed countries may assume the possibility of cuts in their emission of greenhouse gases into the atmosphere, and there may be proposals for reduction of emissions by developed (Annex I) countries of about 40% by 2020, the fact is that there are no ambitious efforts to be seen in that direction. An example is the legislation on climate change currently under discussion in the United States that proposes reduction by only 7% of its emissions as calculated for 2005 (which would represent a cut of only 21.5% in relation to 1990 emissions, the period used as a reference point for the Kyoto Protocol).

In addition, there are other uncertainties on the road to be taken toward a new international climate agreement. Among them, two are of special interest for Brazil: the decision on whether or not developing countries should assume goals for reduction of their emissions, and also on the inclusion of tropical forests in any future regime. The emission of greenhouse gases in developing countries has increased alarmingly in rhythm and volume, and several are now emerging on the list of the largest polluters on the planet. Specialists say that, if this emission progression continues, some developing countries will surpass in a few decades the volume of carbon emitted into the atmosphere by the developed countries since the Industrial Revolution. According to these experts, if not contained, such increasing growth in pollutants could threaten the entire world effort to solve the climate crisis.

Brazil finds itself in a quite differentiated context. Its emissions of greenhouse gases for generation of energy are relatively low because the electric system is based principally on hydroelectricity and not on burning fossil fuels. Another important factor to be considered is the reduced need for heat in the country, avoiding enormous amount of coal, gas, or oil being burned to heat buildings. With regard to transportation, a considerable part of the national fleet of automobiles is equipped with small motors (1.0 or a little larger), with a lower consumption of fuel. For decades the gasoline used in the country contains a mixture of up to 25% automotive alcohol and the adoption of Flex-Fuel Vehicles allows even greater increases. While the burning of ethanol, biodiesel and "in natura" vegetable oils does not prevent the release of carbon dioxide into the atmosphere, the gas is absorbed during the growth of the plants that originated these biofuels, making the final balance close to zero.

However, the relatively low consumption patterns of the Brazilian population are changing. Ordinary cars, because they don't confer status on their owners, are being

replaced by more luxurious, bigger models with more powerful engines. The acquisition of air conditioners, freezers, microwave ovens, heaters and other electric appliances with a high rate of electricity consumption, has increased within sectors of the population that previously did not have access to these goods. The Brazilian electric matrix itself has undergone changes for the worse, with the incorporation of thermal plants.

However, at the moment, the greater part of Brazil's responsibility for global climate changes still is due to modifications in land use. According to the National Inventory of Sources of Emission of Greenhouse Gases, prepared by the Ministry of Science and Technology, the felling of forests, burns, degradation of ecosystems, ranching and agriculture are the activities that most contribute to global warming. The importance of modifications in land use is not only owing to the quantity of carbon that can be released into the atmosphere during a burn. The conservation of forests and of fertile land bears a direct relationship to protection of the water table, the flow of water, the rain regime, the capacity for cooling the atmosphere, maintaining biodiversity, protecting the soil and recycling of nutrients, among other aspects.

In Brazil, there is a certain recurring theme in criticizing the State for its incapacity for leadership in protecting its forested areas: lack of governance, the State's presence, education, and lack of alternatives for social and economic development of forested regions. In addition, there are those that claim that deforestation will only end when the standing forest has greater value than the illegally extracted lumber.

Although adding forest protection to UNFCCC's domain has been thought about, conceptual and technical uncertainties didn't allow for such inclusion in the Kyoto Protocol; there was a lack of consensus on the actual part played by forest destruction with regard to climate change. It should be remembered that the initial focus of the negotiations concentrated on highly industrialized nations, thinking that the origin of the problem was only in the burning of fossil fuels for energy generation. In this phase of the discussions, Brazil was a protagonist, being one of those responsible for the creation of the Clean Development Mechanisms/CDMs. However, with the advance of studies on changes in the planet's climate, other factors were identified as likewise being responsible for the phenomenon, among them deforestation, agricultural and ranching activities. Thus, Brazil passed from being the accuser to the accused, having to explain itself before the international community, assuming a defensive role.

Recently, proposals were forthcoming for mechanisms for Reducing Emissions from Deforestation and Forest Degradation/REDD. There are more than 30 alternatives currently being debated, varying in scope, mode of financing, level of reference, and sharing of benefits. Still, there are many doubts – as yet not duly clarified – that cause concern about the creation of a mechanism aimed at forest protection.

Who will be qualified to make use of the REDD mechanism: governments, companies, and/or NGOs and social movements? With what activities: reduction of deforestation, combating forest degradation, reforestation or planting new forests? With native or foreign species (such as eucalyptus, which grows quickly and therefore withdraws carbon from the atmosphere rapidly)? In the form of heterogeneous forests or monocultures (such as those used for paper production)? Do already existing protected areas count or only those created after a certain date? Voluntarily or obligatorily protected (such as the "legal reserve" anticipated in the Forest Code)? And "environmental services," how will they be characterized, measured and compensated? What types of "carbon stock" should fall under REDD: the aboveground biomass (trunks, branches, etc.), that which is underground (roots) and/or that which can be transformed into compost (leaves, flowers, etc.)? Which countries can participate: only those in the process of developing, or any country? All these questions impact the scale, relative cost, mitigation potential, political viability and capacity for measurement/reporting/verification of future REDD projects.

There are also doubts about what references to use: what is the ideal size for a project: local/regional or national? How will results be measured? What period of time will be used for purposes of comparison: an historic average, current emissions or future projection? The references used will directly influence the type of countries that can be a candidate for REDD, the distribution of benefits among the social actors involved, the need to use adjustment factors for different countries or circumstances, the degree of uncertainty regarding the results to be obtained and monitoring methods.

But perhaps the biggest divergences occur when modes of financing are discussed, as well as the distribution of REDD benefits/compensation/rewards. Where will the money come from: from voluntary or obligatory contributions to an international fund, from the "carbon market" or by means of a hybrid model? Will it be possible to utilize REDD participation as compensation for releasing greenhouse gases into the atmosphere or as abatement of the emission reduction goals of industrialized countries? And where will the money raised go: to those who always preserve the forest or those who have stopped their deforestation activities? To countries with better control over their natural areas or those which have the largest remaining forests? What environmental gains will be compensated: the reduction of emissions, maintaining carbon stocks or "opportunity costs"? These doubts impact operating capacity at the national or international level (unilaterally or multilaterally), the use of credits acquired for meeting goals and fulfilling obligations, and on the limits of the market for absorption of already existing Certified Emissions Reductions – CER together with future REDD credits.

Brazil formally presented two proposals that differed with regard to the mode of financing REDD: the government supports the creation of a voluntary fund, and some

NGOs believe in its feasibility through the carbon market. The consensus is that the funds obtained with REDD should be applied on three fronts; implementation and expansion of protected public areas, reinforcement of governance of the various biomes and incentive for protection of forests in particular areas. There is an argument, however, in Brazilian society about whether there is a real capacity of governance of our forests, with constant monitoring, public agents with police power to combat deforestation, effective application of the law. Another concern is how to prevent "leakage": the destruction avoided in one place or country "migrating" to another area without restrictive controls or the deforestation contained today happening again in the future. There are also strong efforts to include within REDD beneficiaries principally the traditional populations such as river dwellers, indigenous groups and *quilombolas*, and that these be compensated for "environmental services" rendered in addition to protection of the forest itself. Adding to these concerns, the fact of REDD being directly tied to titling of land can cause an increase in violence over possession, and the establishment of a land-grabbing (*grilagem)* industry in forested areas.

As can be seen, in spite of over three decades of studies, discussions, and efforts to understand and overcome the global climate crisis, there is still much to be done. From the palliative planting of trees in an attempt to compensate for the greenhouse gases released into the atmosphere, to the most sophisticated technological changes that diminish the quantity of these pollutants emitted, Humanity has sought alternatives that guarantee its permanence on Earth. However, no solution will be capable of completely resolving the problem without a profound change in our standards for production, distribution and consumption of assets. Only by adapting our need for natural resources will we be able to redeem the "ecological debt" that we already owe the planet and generations to come. In all corners of the world, whether in rich or poor countries, there are still those who seek only a minimum of security, comfort and quality of life. To offset this, one can also find in various parts of the globe, those who have, use, and spend more than necessary to live a full and worthwhile existence. There are those who need to progress in order to minimally satisfy the demands of their families; on the other hand, there are those that have an obligation to contain their squandering, and also to actively collaborate, so that the most indigent can advance in a "clean" and sustainable manner.

As a last reflection, I would like to add the idea of "Climatic Justice." The consequences of global climate changes will affect all of us. However, the most fragile and unprotected, those that have fewer resources, that have fewer alternatives for survival, will be impacted more keenly: these are the small farmers with no agricultural security when harvests fail, residents on riverbanks that will encounter more floods, slums hanging

on hillsides, the victims of the advance of tropical diseases into new areas, mangrove pickers in swamps covered by the rise of ocean levels, and so on.

Some Reference Sources:

- Convenção-Quadro das Nações Unidas sobre Mudanças Climáticas (UN Framework Convention on Climate Change): unfccc.int

- Fórum Amazonas Sustentável (Sustainable Amazonas Forum): www.forumamazoniasustentavel.org.br

- Instituto de Pesquisa Ambiental da Amazônia (Amazonian Environmental Research Institute): www.ipam.org.br e www.climaedesmatamento.org.br

- Ministério de Ciência e Tecnologia (Ministry of Science and Technology): www.mct.gov.br/clima

- Programa das Nações Unidas para o Desenvolvimento (UN Development Program): www.undp.org

- Vitae Civilis Instituto para o Desenvolvimento, Meio Ambiente e Paz (Vitae Civilis Institute for Development, the Environment and Peace) www.vitaecivilis.org.br

Social Organizations against the Use of REDD as a Carbon Market-Based Mechanism

Representatives from various segments of society, joined together at the seminar on "Climate and Forest – REDD and market mechanisms as a solution for Amazonia?" (Belém, October 2009) are releasing a public letter in which they claim that the Reduction of Emissions due to Deforestation and Degradation (REDD) should not be used as a carbon market-based mechanism nor accepted as compensation for emissions by Northern countries.

Letter from Belém

We the undersigned are social-environmental movements, family farmers, rural workers, agricultural extractive workers, members of *quilombola* communities, women's organizations, grassroots urban organizations, fisherman, students, traditional and native peoples who share the struggle against deforestation, and for environmental justice in the Amazon and in Brazil. We gathered together at the seminar "Climate and Forest – REDD and market-based mechanisms as a Solution for Amazonia?," held in Belém on October 2 and 3, 2009, in order to analyze the proposals under discussion on Reduction of Emissions for Deforestation and Degradation (REDD) for the region, in the light of our experiences with the policies and programs implemented in the last decades. In this Letter, we make public our demand that the Brazilian government reject the use of REDD as a carbon market-based mechanism, and that such not be accepted as compensation for emissions by Northern countries.

We reject market mechanisms as tools to reduce carbon emissions, based on the firm conviction that corporations are not capable of assuming responsibility for the life of the planet. The Conference of the Parties (COP) and its results show that governments are not disposed to assume consistent public commitments; they transfer practical responsibility for achieving goals, although woefully insufficient, to private enterprises. This means that, while public investment and fulfillment of goals falter, expansion is

legitimized of the world CO2 market, which appears to be a new form of financial capital investment, and most particularly a failed production and consumption model.

The REDD proposals under discussion do not differentiate between native forests and extensive tree monocultures, and allow corporations and large farmers – who historically destroyed ecosystems and evicted the populations that lived in them – to find in the mechanisms for economic appreciation of the forest, the means to maintain and strengthen their economic and political power to the detriment of these populations. In addition, we run the risk of industrialized nations failing to drastically reduce their fossil fuel emissions and maintaining an unsustainable production and consumption model. We need agreements that require the Northern countries to recognize their climate debt and to commit to reparation.

For Brazil, international negotiations on climate cannot be focused on the REDD debate and other market-based mechanisms, but rather on the transition to a new model for production, distribution, and consumption, based on agro-ecology, a solidarity-based economy, and a diversified and decentralized energy matrix that guarantees food security and sovereignty.

The central challenge for confronting the deforestation of the Amazon and other biomes in the country lies in the solution of the serious land ownership monopoly, which is at the root of the socio-environmental conflicts. Deforestation is the result of the advance of mono-cropping, facilitated by policies that favor agribusiness, as well as predatory exploitation of natural resources. Therefore, the government needs to implement agrarian reform, and recognize the territories of traditional and native peoples.

It is necessary to implement public policies that allow recognition and valorization of traditional practices, based on coexistence between production and environmental preservation.

The below sign:

Amigos da Terra – Brasil (Friends of the Earth – Brazil)
ANA – Articulação Nacional de Agroecologia (National Agro-Ecology Network)
Associação Agroecológica Tijupá (Tijupá Agro-Ecological Association)
Associação Civil Alternativa Terrazul (Terrazul Alternative Civil Association)
APACC – Associação Paraense de Apoio às Comunidades Carentes (Pará Association for Support of Needy Communities)
APA-TO – Alternativas para a Pequena Agricultura do Tocantins (Tocantins Small Agriculture Alternatives)
CEAPAC - Centro de Apoio a Projetos de Ação Comunitária (Community Action

Project Support Center)
CEDENPA – Centro de Estudos e Defesa do Negro do Pará (Pará Center for the Study and Defense of the Black Populace)
COFRUTA – Cooperativa dos Fruticultores de Abaetetuba (Abaetetuba Fruit Growers Cooperative)
Coletivo Jovem Pará (Pará Youth Collective)
Comissão Quilombola de Sapê do Norte – Espírito Santo (Sapê do Norte Quilombola Commision – Espírito Santo)
CONTAG – Confederação Nacional dos Trabalhadores na Agricultura (National Confederaton of Agricultural Workers)
CUT – Central Única dos Trabalhadores (Single Workers Union)
FASE – Solidariedade e Educação (Solidarity and Education)
FAOC – Fórum da Amazônia Ocidental (Western Amazonia Forum)
FAOR – Fórum da Amazônia Oriental (Eastern Amazonia Forum)
FEAB – Federação dos Estudantes de Agronomia do Brasil (Association of Brazilian Agronomy Students)
FETAGRI – Federação dos Trabalhadores na Agricultura do Pará (Agricultural Workers Federation of Pará)
FETRAF – Federação Nacional dos Trabalhadores e Trabalhadoras na Agricultura Familiar do Brasil (National Federation of Family Agricultural Workers of Brazil)
FMAP – Fórum Mulheres Amazônia Paraense (Pará Amazonian Women's Forum)
FORMAD – Fórum Mato-Grossense pelo Desenvolvimento e Meio Ambiente (Mato Grosso Forum on Development and the Environment)
Fórum BR 163 (BR 163 Forum)
Fórum Carajás (Carajás Forum)
Fundo Dema (Dema Fund)
GIAS – Grupo de Intercâmbio em Agricultura Sustentável do Mato Grosso (Mato Grosso Sustainable Agricultural Exchange Group)
GMB – Grupo de Mulheres Brasileiras (Brazilian Women's Group)
IAMAS – Instituto Amazônia Solidária e Sustentável (Solidary and Sustainable Amazon Institute)
Instituto Terrazul (Terrazul Institute)
MAB – Movimento dos Atingidos por Barragens (Dam Affected Peoples' Movement)
Malungu – Coordenação das Associações das Comunidades Remanescentes de Quilombos do Pará (Coordination of Associations of Quilombolo

Remainder Communities of Pará)
MAMEP – Movimento e Articulação de Mulheres do Estado do Pará (Women's Movement and Network of the State of Pará)
MMM – Marcha Mundial das Mulheres (World Women's March)
MMNEPA – Movimento de Mulheres do Nordeste Paraense (Northeastern Pará Women's Movement)
MMTA-CC – Movimento das Mulheres Trabalhadoras de Altamira Campo e Cidade (Altamira Women's Country and City Workers' Movement)
Movimento Xingu Vivo para Sempre (Xingu Alive Forever Movement)
MST – Movimento dos Trabalhadores Rurais Sem Terra (Landless Workers' Movement
RBJA – Rede Brasileira de Justiça Ambiental (Brazilian Environmental Justice Network)
Rede Brasil sobre Instituições Financeiras Multilaterais (Brazilina Network on Multilateral Financial Institutions)
REBRIP – Rede Brasileira pela Integração dos Povos (Brazilian Network for the Integration of Peoples)
RECID – Rede de Educação Cidadã (Citizenship Education Network)
Rede Cerrado (Cerrado Network)
Rede Alerta contra o Deserto Verde (Green Desert Alert Network)
SDDH – Sociedade Paraense de Defesa dos Direitos Humanos (Pará Society for Defense of Human Rights)
STTR - Sindicato dos Trabalhadores e Trabalhadoras Rurais – Abaetetuba (Rural Workers' Union – Abaetetuba)
STTR – Sindicato dos Trabalhadores e Trabalhadoras Rurais – Cametá (Rural Workers' Union – Cametá)
STTR – Sindicato dos Trabalhadores e Trabalhadoras Rurais - Lucas do Rio Verde – Mato Grosso (Rural Workers' Union – Lucas do Rio Verde – Mato Grosso)
STTR - Sindicato dos Trabalhadores e Trabalhadoras Rurais – Santarém (Rural Workers' Union – Santarém)
UNIPOP – Universidade Popular
Via Campesina Brasil

Belém, 2 and 3 October 2009

Although poverty is a complex, variable, and persistent phenomenon, the World Bank has appropriated the issue, seeking to place it under social control. Under the pretext of alleviating the poverty of nations, it has expanded its ability to influence national governments. Thus, for the Bank, the existence of poverty becomes more valuable than its eradication. The mission to "fight poverty" confers prestige on the institution and acts as a symbol of its power.

Poverty according to the World Bank

Francisco Adjacy Farias e Mônica Dias Martins[1]

The concept of poverty as developed and disseminated by the World Bank has long served as the model by which governments, NGOs, and academic institutions analyze socio-economic realities. In this work, we examine some of the World Bank's principal documents on the subject of poverty, an issue that has become synonymous with the institution's work with nation states over the course of the last three decades. While on the one hand, this multilateral organization has at its disposal a vast supply of experts and data to mold anti-poverty discourse; on the other, it skillfully assimilates objections made by former directors, intellectuals, and activists. This study reveals that the World Bank's concept of poverty guides not only the policies of national governments, but also the debate regarding development in the international community.

What the World Bank Says

In Nairobi (1973), Robert McNamara christened the idea that poverty is a threat to development and global security.[2] Since then, the World Bank has adopted the role of "articulator" of policies to fight poverty, alongside the governments of countries dependent on its aid. By stimulating research and publishing a huge catalogue of writings

[1] *Francisco Adjacy Farias is a sociologist and member of the research group Observatório das Nacionalidades (Nationality Watch). Mônica Dias Martins is a professor at the State University of Ceará coordinator of Observatório das Nacionalidades, and editor of the journal Tensões Mundiais (World Tensions).*

[2] *Robert McNamara chaired the World Bank from 1968 to 1981. His ideas and his tenure as president of the Bank are analyzed in the article "Guerra e desenvolvimento: as inflexões do Banco Mundial" (Martins, 2007).*

on poverty, the World Bank exerts influence on a global scale. It is common to encounter citations from these studies in academic, governmental and journalistic publications. In Brazil, for example, the National Council for Scientific and Technological Development (CNPq), the country's foremost institution for advancing research, was assisted by the World Bank in the years of the military dictatorship.[3]

The publication in 1990 of the World Development Report, which takes poverty as its central theme, was a milestone in development literature. Filled with economic and social data on a wide range of countries, the report claims to measure poverty in qualitative and quantitative terms. The document acts as a balance sheet for the global economic situation, with information on GNP (Gross National Product), interest rates, public deficits and surpluses, internal and external debt, as well as revealing the regions with the highest levels of absolute poverty (individuals surviving on less than a dollar a day). In general, it measures poverty with predominantly economic indicators, such as per capita income. For the Bank, the 1990s were seen as "a new and uniquely promising era in the history of the world" (Ibid, 1990:7). It is worth noting the historical context of this statement. In the 1980s, the conflict between the socialist and capitalist blocs was still going on. But in the decade that followed, the end of the Cold War strengthened many economists' belief that capitalism would prove the universal remedy for all socio-economic ills.

In this report, the World Bank's plan to reduce poverty in a "rapid and politically sustainable" way focuses on two strategies: promoting employment and social services. However, as the Bank argues, the success of this strategy depends on "client" countries faithfully following its directives, and the "aid" they receive from international organizations depends on this faithful compliance.

External assistance should be more tightly linked to an assessment of the efforts that would-be recipients are making to reduce poverty… This reflects the conviction that aid works well only when it complements a sound development strategy (World Bank, 1990:4).

Confident that it has the ultimate recipe for reducing poverty, the World Bank maintains that "the principal elements of an effective strategy are well understood and that the external resources needed to support it could be made available at little cost to industrial countries" (Ibid:6). Although the offer of international "aid" to fight poverty seems convincing in theory, in practice its execution makes "assisted" countries dependent, financially or technically, on resources destined for a "well-defined clientele". In other words, by prescribing how and where these resources are employed, the institution imposes on its poor "clients" predetermined employment and welfare policies, the key elements of its scheme to fight poverty in the 1990s.

[3] *For more detail on the World Bank's interference with Brazil's science and technology policy, see the article, "O Banco Mundial e a política científica brasileira".*

In the preface to the *World Development Report* of 2000/2001, the World Bank admits that it did not meet its poverty reduction goals for the previous decade. On the contrary, the number of people living in poverty rose in Latin America, South Asia, and Sub-Saharan Africa, as well in the countries of Europe and Central Asia which made the transition to market economies. The Bank acknowledges the difficulties of the fight against poverty and the complexity of the problem. In an attempt to shed more light on the issue, the World Bank presents a brief retrospective of the distinct development strategies adopted by various countries, under its guidance, over the course of the past few decades:

In the 1950s and 1960s many viewed large investments in physical capital and infrastructure as the primary means of development. In the 1970s awareness grew that physical capital was not enough, and that at least as important were health and education… The 1980s saw another shift of emphasis following the debt crisis and global recession and the contrasting experiences [of East Asia and Latin America, South Asia, and Sub-Saharan Africa]. Emphasis was placed on improving economic management and allowing greater play for market forces… In the 1990s governance and institutions moved toward center stage—as did issues of vulnerability at the local and national levels (World Bank, 2002:6).

Its strategy of poverty reduction, once based on offering employment and social services, has changed fundamentally. Now, it deals instead with "promoting opportunity, facilitating empowerment, and enhancing security" (Ibid). Thus is the concept of poverty broadened to encompass more and more areas of public policy. Or, in the words of the 2000/2001 report: "The strategy in this report recognizes that poverty is more than inadequate income or human development—it is also vulnerability and a lack of voice, power, and representation" (Ibid:12).

But what is meant by "inadequate human development"? The World Bank places the greatest responsibility for the failure of its anti-poverty strategy squarely on the shoulders of the poor nations themselves, whose leaders must be too elitist, inefficient, corrupt, weak, or otherwise unfit to implement the Bank's policies. The following excerpts illustrate this view:

Another underlying cause of vulnerability is the inability of the state or community to develop mechanisms to reduce or mitigate the risks that poor people face (Ibid:37).

Governments are often more responsive to the concerns of elites than to the needs of poor groups… Improving governance also requires building administrative and regulatory capacity and reducing corruption. The burden of petty corruption falls disproportionately on poor people… (Ibid:39).

Elsewhere in this report, the World Bank makes reference to a document entitled *Voices of the Poor*, written in partnership with universities, and representing an attempt to understand the "realities of more than 60,000 poor women and men in 60 countries…

The study shows that poor people are active agents in their lives, but are often powerless to influence the social and economic factors that determine their well-being" (Ibid:3). The findings justify the institution's new position regarding poverty, redefined in a multidimensional perspective, incorporating environmental and psychological factors in its analysis. Henceforth it shall be necessary to "listen" directly to those who are trapped in conditions of penury and have demonstrated their "incapacity" to break the vicious cycle of poverty.

By examining these two reports, we can see that over the course of the past decade, the World Bank has fundamentally altered its concept of poverty, and its strategies for combating it. Even while conceding the inadequacy of its previous methods, it never wavers in its belief in the power of the market and the capitalist system as the foundation of its campaign against poverty.

The book *Globalization, Growth, and Poverty* (2003) was the result of a study commissioned by the World Bank. As the preface makes clear: "The focus of our research is the impact of economic integration on developing countries and especially on the poor people living in these countries" (World Bank, 2003:ix). In the book, the Bank once more attributes the failure of its campaign in large part to "incompetent economic policies, unemployment and nationalism [which] drove governments into beggar-thy-neighbor protectionism" (Ibid:4). To illustrate its image of a successful economy, it presents the United States as an example of a developed and prosperous country, "the largest and in some respects the most successful economy on earth, giving millions of poor people, many of them immigrants from developing countries, an opportunity to rise to prosperity" (Ibid:33).

By threatening so-called poor nations with the charge of "protectionism", the World Bank is insisting once again that international "aid" is the only way these countries can progress and adapt to the new "global reality":

The evidence shows that, when low-income countries reform and improve the investment climate and social services, private investment—both domestic and foreign—responds with a lag. It is precisely in this environment that large-scale aid can have a great impact on growth and poverty reduction. Thus, while creating a sound policy environment is primarily a national and local responsibility, the world can help societies making difficult changes with financial support (Ibid:158).

The definition of "poor" and the concept of poverty are determined by the World Bank team, under a methodology that goes undefined in any of the literature analyzed in this study. Well organized, with the characteristic diagrams, figures, and formulas of economic studies, its reports profess to identify, quantify, and characterize the poor. But by giving so much weight to the financial aspect of human relations, does this method of classification not become arbitrary and one-sided?

What one cannot help but notice, however, is the lack of any reference to the customary practices of international commerce and to the financial articulations of the market. Reading the World Bank's publications gives one the impression that only the Bank can help the poor, and the failure of development is caused by the "inability" of the poor or the "incompetence" of governments. Only with the sound application of capitalism, as well as a belief in the system and obedience to its rules, can we create the perfect model to eradicate poverty.

Studies carried out by the World Bank uniformly lack any data on the poor in countries such as the USA, Germany, or France. We know, of course, that poverty can be found in these countries. Two significant events help to bring to light the plight of the poor in developed nations. In August 2005, Hurricane Katrina hit the US coastline, forcing the mainstream media to expose the hidden face of extreme poverty that resulted from so-called "market fundamentalism".[4] Barely two months later, in October 2005, huge protests broke out in France. For 11 years, poor immigrants who live crowded into ghettos, victims of mass unemployment, racism, and a lack of government assistance, organized a string of riots.[5]

How did the World Bank respond to these events? With apparently little interest. For the Bank, it seems, it is vital that poverty be isolated (like a disease) and restricted to its area of "influence": those countries labeled poor and underdeveloped. It is perhaps for this reason that the poor who happen to inhabit rich countries are never discussed in the Bank's printed documents or even on its web site.

The bank's reports maintain a strictly technocratic and economic tenor, which limits complete understanding to individuals with a reasonable level of education. Does the World Bank intend to produce a document aimed only towards initiates? Or is it a poverty code to be deciphered by newcomers to the subject? Or, as in religious orders, is the Bank seeking a way to protect its sacred knowledge of poverty from the unholy?

After reading the World Bank's publications on poverty, one is left with the sense of a concerted effort to create a standardized concept of a poor person, the "universal poor person", in an attempt to appropriate the concept of poverty and legitimize it on the world stage. The poor are necessary to the survival of the World Bank: in "a world free of poverty", its ability to influence national government policy would be compromised.

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[4] *This natural disaster, which affected the USA, particularly New Orleans, on August 29th, 2005, necessitated the evacuation of more than a million people.<www.vermelho.org.br/diario/2005/0903/0903_katrina_tres.asp>, accessed April 2007.*

[5] *<www.sr-cio.org/texto/internacional/francamotins.htm>, accessed March 2007.*

The Poverty of Nations

With the accelerated development of science and technology, knowledge increasingly proves itself an instrument of power. In societies that place a high value on specialization, economic statistics, the short-termism of results, and the computerization of data, to control areas of knowledge constitutes a mechanism of legitimation. This is the purpose behind the World Bank's manipulation and diffusion of the concept of poverty.

Although poverty is a complex, variable, and persistent phenomenon, the World Bank has appropriated the issue, seeking to place it under social control. Under the pretext of alleviating the poverty of nations, it has expanded its ability to influence national governments. Thus, for the Bank, the existence of poverty becomes more valuable than its eradication. The mission to "fight poverty" confers prestige on the institution and acts as a symbol of its power.

The World Bank directs the formulation of public policy, interacts with diverse areas of knowledge, stimulates research, and accepts studies on poverty, even if they diverge from its own views. In this way, the Bank's ideas spread out into academia, the halls of government, and the media, giving further authority to the institution's concept of poverty.

Foreign loans render "assisted" countries dependent on the powers that run the World Bank. For this reason, if national policy follows the "global order", then it makes no sense to blame poverty on local factors like the "inefficiency" of governments, "nationalism", and "excessive corruption". But the Bank returns again and again to arguments of this kind in order to obscure the true origins of the problem, encouraging the "naturalization" of poverty.

It is well known that the capitalist system generates wealth and poverty at a level unprecedented in human history. Either we rethink the way we produce, the way we work, the way we distribute incomes, manage nature, and coexist with the "other", or we will become the very image of "unsustainable modernity": "planet poverty" spinning in orbit around the "rich world" of capital, and our world will come to resemble the dystopian nightmare of *Soylent Green*.[6]

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MARTINS, Mônica Dias. "Guerra e desenvolvimento: as inflexões do Banco Mundial." *Tensões Mundiais*, v.3, n.4, Jan/Jun 2007.

[6] *This film depicts a society in social and political chaos caused by extreme inequality (Metro Goldwyn Mayer. Directed by Richard Fleischer, 1973).*

Impoverishment, social inequality, and the forms of exclusion characteristic of a failed economic model explain the reason why migration is not an option, but a necessity that is assumed in a forced manner. Migration is a process that takes place, at this time, within the framework of globalization and cannot be understood outside of this. It must be approached as an economic, political, cultural and social process directly related to the effects that the neo-liberal economic model imposes worldwide.

In Defense of the Rights of Migrants

Luiz Bassegio and Luciane Udovic[1]

The phenomenon of migrations, in recent years, is present in Latin America, Central America, the Caribbean, Africa and Asia. It is not difficult to find the relationship between the phenomenon of migrations and the implementation of neo-liberal policies regarding structural adjustments, privatizing, restriction of the rights of workers and compensatory policies. Such policies impoverish populations and force thousands of people to migrate.

The migration picture fits within the wider context of a worldwide globalized society and economy. The Instruction – Christ's Charity Toward Migrants – states that: "Today the vast migratory phenomenon increasingly constitutes a major component of the growing interdependence between States and Nations, one which contributes to defining the arrival of globalization, which opens up markets, but not borders, breaks down barriers for the free circulation of information and capital, but not to the same extent for the free circulation of persons." (*Christ's Charity with Migrants, 2004)*

In spite of all sorts of restrictions that, principally, rich countries impose on immigrants (walls, border patrols, return directive, restrictive legislation, surveillance

[1] *Luiz Bassegio and Luciane Udovic are members of the Cry of the Excluded Continental Coordinating Office.*

systems with boats, radar, underwater cameras, and externalization of the borders), they keep coming, one way or another, to the rich countries.

The United Nations Program for Development (PNUD) published its report for 2008 asking rich countries to support immigration. According to the document, entitled "Breaking Barriers: Human Mobility and Development," developed nations will need foreign labor with the end of the recession.

One of every seven persons in the world – a billion persons – is an immigrant, affirms PNUD, for whom "migration can improve the human development of those who are dislocated, their destination communities, and those who remain at the place of origin." According to PNUD, in 2010 there will be 188 million international migrations, that is, 2.8% of the world population. In 1960, this figure was 74.1 million, which equaled 2.7% of the total inhabitants of the world at that time. "The majority of migrants do not cross national borders, but relocate within their own country: 740 million persons are internal migrants and almost duplicate the figure for international migrations." (PNUD Report, 2008).

There are more than four million Brazilian emigrants in other countries, with more than 1.5 million in the United States, followed by Japan, Paraguay, Spain, Italy, Portugal, Germany, and England. The number of Latin American immigrants in Brazil is also significant, principally Bolivians, Peruvians, Paraguayans and Chileans.

In the case of Brazil, what is most noteworthy is the large number of internal migrants – 50 million –in spite of this migration, principally toward the large cities, beginning to diminish. According to PNAD, an interesting fact is that the contingent of inter-state migrants, which since 2001 hovered around 4.6 million persons, in 2007 leveled out at 3.3 million.

Although São Paulo is the state that most attracts migrants, in the 1990s, the difference between São Paulo and the [other] Brazilian regions was always in São Paulo's favor, reaching an annual net influx of 587 thousand persons in 1993. In the 2000s, this flow has been inverted, reaching its highest point in 2005, with a net departure of 269 thousand persons. (PNAD, 2008, IPEA).

But what is glaring is the degrading working conditions or conditions analogous to slave labor existing in the garment sweat shops in São Paulo. To the extent, however, that there is greater surveillance by the Ministry of Labor and Justice, a significant number of shops left the Paulista capital's neighborhoods for cities in the interior or for the southern region of Minas Gerais, in order to escape surveillance.

The global crisis we are living with is, above all, a crisis of the capitalist paradigm, because it is unsustainable in the mid and long term. We have a production model based on the constant plundering of natural riches with their immense and irrational use that

ends up destroying the delicate balances on which the life of the planet as a whole depends. This is based on the inter-power dispute for control of those riches which imposes on enormous segments of the world's human population a miserable life subject to violence, which keeps an atrocious concentration of riches in a very few hands and favors few countries. This is a model based on the commercialization of everything: values, human dignity, and life itself.

We must find new forms for social and productive organization based on solidarity and on the deepest respect for life. The consequences of the economic crisis are that millions of the excluded throughout the world who barely survive with the minimum to keep themselves alive, are obliged to emigrate from their countries and communities of origin to seek opportunities in the "first" world, where they are shamelessly threatened and persecuted, treated as "third class" citizens to be super-exploited, as shown by the laws and migration policies of Europe and the United States. (Continental Declaration of the Cry of the Excluded 2009)

One again immigrants are the "scapegoats" of the crisis. They are not the cause of the crisis, to the contrary, the increase in their numbers is a consequence of same. They are not the problem, but rather a solution. They cannot be criminalized for not having papers or being irregular. The crime lies in the structural causes that provoke migration.

"To migrate is not a crime, what is a crime are the causes that create the migration. We raise our voices, defend our rights, fight together to build a world without walls." (Rivas Declaration, World Forum on Migration, 2008).

Causes of Migration

Impoverishment, social inequality, and the forms of exclusion characteristic of a failed economic model explain the reason why migration is not an option, but a necessity that is assumed in a forced manner. Migration is a process that takes place within the framework of globalization and cannot be understood outside of this. It must be approached as an economic, political, cultural and social process directly related to the effects that the neoliberal economic model imposes worldwide.

In the last two decades, several struggles have come to the fore with regard to guaranteeing the rights of immigrants to a worthwhile life, wherever they may be. Campaigns for a new law on foreigners, struggles for agrarian reform, the fight against slave labor with greater surveillance, amnesty and bilateral treaties, are some of the initiatives developed in Brazil.

Throughout its history, Brazil has been the product of a mixture of ethnicities, cultures, accents, music, habits. We are the result of a rich diversity. Migration in the present day world, besides bringing with it cultural richness, and although it may often

be the fruit of poverty that forces people to seek better living conditions far from their home countries, contributes to improving the remittances of many countries.

We demand that Brazilians who are overseas be respected, have their rights guaranteed. This reminds us of the principle of reciprocity. On demanding that Brazilian emigrants be well treated, we cannot fail to fight for a new law in our country that respects emigrants here. A law in accordance with the principles of our constitution and with the UN International Convention on Protection of the Rights of All Migrant Workers and their Families. This campaign for a New Law on Foreigners was begun in 2001 and continues today.

Combating Slave Labor

The fight in defense of rights has strongly marked the struggle against slave labor, principally the conditions to which immigrants working in the garment sweat shops in São Paulo are subject. The great majority work and live at the same unhealthy site where the shops are located, which creates serious health problems for them. One of the most serious is tuberculosis. A normal workday in a garment sweat shop runs for 12 to 14 hours, but many work from 7 a.m. to midnight.

If we closely examine the situation of the Bolivian people, we can see the following points that characterize slave labor: the manner in which they are recruited in Bolivia, with deceptive promises of salaries of up to $500 dollars a month, when in truth such are not greater than $100; the confinement to which they are submitted in São Paulo; working several months to pay for the trip and the impossibility of communication; keeping their documents and blackmailing them with threats of being reported to the police; the long and exhausting workday to which they are submitted and which is often more than 16 hours a day; continual rotating of the work site, thus preventing any type of organization and foiling local authorities; unhealthy working conditions: living and working in the same place, breathing the dust from work on the garments. And restriction of freedom due to the work schedule and constant coercion. But the most serious of all is the impossibility of demanding their rights, whether because of language barriers or because of being undocumented and subject to a law on foreigners that is authoritarian, xenophobic, restrictive and even so in a factory that produces undocumented persons.

Cumulative Reflections

The Rivas Declarations (final documents of the World Social Forum on Migration, Rivas, Spain), point to:

- Creating another world is possible, necessary and urgent. Migrants are transformational agents for the societies they come to and leave from and this role

should be recognized and promoted, as well as the opportunity for its growth.

- Migration policies cannot be on the fringes of Human Rights, as these are a common birthright of humanity.

- Universal citizenship is a necessity for the processes of living together. All those who come to a new country should have all rights inherent to the status of citizens.

- Migrants are social beings whose empowerment and connection as agents of political, social, cultural and economic transformation is fundamental. The World Social Forum on Migrations is an exceptional space for coordination of the movement in defense of migrants' rights.

We also state that:

- Practices on the fringes of human rights are not acceptable. Migrants are people and not merchandise and therefore must be guaranteed all rights that allow them to develop and be able to be citizens of the society to which they come: labor, social, cultural, economic, civil and political rights.

- There are other forms of persecution that force millions of people to leave their societies of origin, such as persecution for reasons of gender, sexual orientation, race, religion, and the vulnerability of economic and social rights that are not covered in international protective legislation.

- We denounce all forms of racism, xenophobia, the fortification of borders, walls, patrols, mafias, trafficking in persons for sexual exploitation and slave labor.

Social movements demand that:

- Human rights protection in all stages of the migratory process – origin, transit, destination, and return.

- Migrants must not be criminalized for the fact of not having papers; the laws on foreigners contradicting international law on human rights must be revoked.

- Signature, ratification, and putting into practice the International Convention on the Rights of Migrant Workers and their Families.

Amnesty

This is an important measure enacted by the Brazilian government in 2009. The measure will benefit, according to estimates by the Center for Migrant Support, between 70 to 100 thousand immigrants throughout Brazil, mostly South Americans. On the other hand, it must also be considered that the amnesty will permit greater visibility for Asian and African immigrant groups, a migratory flow that has been increasing in recent years.

However, for immigrants to actually have access to its benefits, a major campaign is necessary which includes publicizing and reporting in the major communication media, the work of organized immigrant groups to see that information gets to their bases, commitment on the part of the immigrants' countries of origin, especially, Peru. Bolivia, Paraguay, and Colombia, which have the greatest irregular immigrant populations in the country, as well as promptness on the part of the competent public entities to attend to immigrants' [needs].

For social organizations, among them the Center for Migrant Support, amnesty is a very important step toward guaranteeing the immigrants' human rights. However, it must be accompanied by some changes in administrative procedures so that the National Registry of Foreigners (RNE) is furnished to immigrants within a maximum term of 180 days. Currently, an RNE, which is going to be the immigrant's identity document, takes up to two years, and this is the principal means of entry to achieve social inclusion in the country. (Adital, 3 July 2009).

Agreement on Free Transit and Residence

The Agreement on Residence for Nationals of Mercosul party states, present for Decision No. 28/02, of the Common Market Council, gives the rights to residence and work to citizens of all countries included in the treaty, provided they have a valid passport, birth certificate and certificate proving lack of criminal antecedents. Once these requirements are met, citizens may request temporary residence of up to two years in another country in the bloc and, before such term is over, they may request permanent residence. This agreement allows immigrants access to documentation, having a fixed address, a signed card, which allows them to make use of social rights such as social security, social welfare, etc. The agreement on residence was ratified by Brazil, Uruguay, Argentina, and Paraguay. The same agreement was also made with Bolivia and Chile. Achievement of the residence agreements reflects the new policies of the governments of these countries, but it is the fruit of much struggle by the migrant movement.

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