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Human Rights in the Americas. Review of 2019 - Brazil [AMR 01/1353/2020]

The openly anti-human rights rhetoric developed by President Bolsonaro in the 2018 electoral campaign was put into practice through administrative and legislative measures by federal and state governments. The year also saw an increase in the number of killings by police on active duty; severe environmental crises in the Amazon disproportionately affecting Indigenous peoples, *Quilombolas* and other local traditional communities; attempts to curtail the activities of civil society organizations; and threats against and killings of human rights defenders. The authorities failed to provide an adequate response to a whole range of human rights violations.

Background

The president and other high-ranking officials maintained an openly anti-human rights discourse that included statements aimed at weakening the Inter-American human rights system.

Legal, constitutional and institutional developments

The federal authorities promoted a number of executive orders, provisional measures, draft bills and other legal instruments that threatened to have a negative impact on human rights in the country. For example, a series of anti-corruption and public security measures were introduced which contained a vague and broad definition of self-defence that fell far short of international human rights law and standards and could be used to justify excessive use of lethal force by state agents. Regulations on the possession and transport of firearms were relaxed and measures were adopted to block the investigation of crimes under international law committed during the military regime.

Environmental crisis in the Amazon

By the end of the year, there was no consistent public policy for the prevention of deforestation and fires, nor for the protection and remedies for affected populations. There were also no independent investigations and comprehensive measures for the accountability of all those involved in the burning of the Amazon rainforest in 2019. According to the Social and Environmental Institute (Instituto Socioambiental, ISA), some 435,000 hectares were burned in eight months, affecting the livelihoods and health of rural and urban communities, especially Indigenous peoples and *Quilombola* communities living in the region. According to the National Institute for Space Research / INPE, a Brazilian government agency that monitors the situation of the Amazon by satellite, the estimated deforestation rate for the nine states of the Brazilian Legal Amazon was 9,762 km² for the period of August 2018 to July 2019. This value represents an increase of 29.54% in relation to the deforestation rate calculated in the previous year, which was 7,536 km². This same Institute confirmed that there was a 30% increase in forest fires in 2019, with 89,178 fire outbreaks detected by satellite.

The devastating fires in the Amazon were the symptom of the larger crisis of illegal deforestation and land seizures. There was evidence that burning was associated with the interests of agribusiness, especially for clearing the forest for cattle farming, and in some cases with the collusion of authorities. Brazilian law contains strong provisions for the protection of Indigenous people's territories and environmental reserves. However, President Bolsonaro actively sought to undermine those protections. On 29 August, he enacted a decree prohibiting land clearance fires for 60 days as part of the government's response to the crisis. An official working for Brazil's national environmental agency expressed concern that the decree would have only limited effect because most of the recent fires were already prohibited by existing laws. Representatives of NGOs and local officials alleged that many of those starting the fires had been encouraged to occupy plots of land in Indigenous territories and environmental reserves by local farmers and politicians.^[1]

A consistent pattern emerged whereby plots of land in the forest were identified and illegally seized, trees were cut down and cleared, then fires were lit (often repeatedly in the same area) before grass was planted and cattle eventually introduced. For example, the area around a fire that raged in Indigenous Manoki territory in Mato Grosso state in August had been fenced off and Manoki leaders told Amnesty International that they believed the fire was intended to pave the way to create pasture for cattle.

In November, President Bolsonaro stated that he expected the destruction of the world's largest tropical rainforest to continue, in reference to his presidential campaign promise to open the Amazon to more agriculture and mining. While the Environment Minister stated that the government hoped to reduce illegal deforestation in 2020, he did not indicate any concrete goal.

Indigenous peoples' rights

The Bolsonaro administration failed to fulfil its obligations to protect Indigenous peoples and indeed several measures it adopted increased the risks they faced.

For example, the National Foundation for Indigenous People (FUNAI) was stripped of some of its powers. President Bolsonaro also made repeated statements aimed at discrediting and undermining the Brazilian Institute for Environment and Renewable Natural Resources. Both organizations had played a crucial role in monitoring and protecting the Amazon and the weakening of their powers and influence increased the risks faced by Indigenous peoples and their leaders.

Official recognition and demarcation of the territories of Indigenous peoples remained slow and largely ineffective. Indeed, the situation was aggravated by the introduction of Provisional Measure No. 870/2019 which transferred FUNAI's powers of demarcation to the Ministry of Agriculture and threatened to bring the demarcation of Indigenous lands and resolving the titles to land of Quilombola communities to a halt. The Provisional Measure was criticized by the UN Special Rapporteur on the rights of Indigenous peoples for undermining FUNAI's role in protecting Indigenous peoples. In June of 2019, the Measure was reversed following the approval of Law 13.844 and control of FUNAI was returned to the Ministry of Justice.

According to a report by the Indigenous Missionary Council (CIMI), between January and November at least 21 Indigenous territories where the presence of peoples in voluntary isolation has been recorded were invaded by loggers, prospectors, hunters, fishers and people seeking to appropriate lands to exploit its natural resources. The survey did not include territories where peoples were present but where their lands had yet to be demarcated and protected.

Indigenous peoples and Afro-descendant communities came under increasing pressure from illegal land invasions by loggers and other commercial interests. Government oversight of these isolated communities was scaled back and, in some cases, non-existent. In addition, community leaders and human rights defenders were threatened and attacked.

For example, Indigenous peoples in three territories in northern Brazil, the Karipuna and Uru-Eu-Wau-Wau in Rondônia state and the Arara in Pará state, reported illegal seizures of their ancestral lands. They described how illegal intruders had cut new paths into the forest near their villages. In all three sites, Indigenous leaders repeatedly reported illegal land seizures and logging to the authorities, but the authorities' response was limited and illegal land seizures and logging continued. For example, between January and April 2019, the Federal Public Prosecutor's Office sent at least four letters to the Ministries of Justice and Public Security – the Ministry responsible for FUNAI – and Women, Family and Human Rights describing the deterioration in the security situation in the Karipuna and UruEu-Wau-Wau territories, warning of a risk of conflict and requesting immediate support from the National Security Force. By the end of the year, the Ministries of Justice and Public Security and Women, Family and Human Rights had not coordinated with the National Security Force to protect the Karipuna and Uru-Eu-Wau-Wau territories and long-term protection plan remains unresolved. In addition, Karipuna and Uru-Eu-Wau-Wau leaders received death threats.^[2]

According to CIMI, land invasions in Indigenous territories, which had risen from 96 in 2017 to 109 in 2018, increased dramatically in 2019 with 160 cases recorded in the nine months to September alone. Killings of Indigenous people, which rose from 110 in 2017 to 135 in 2018, looked set to reach record levels in 2019. A report by Global Witness pointed to the growing number of killings of environmental activists, including Indigenous leaders, linked to extraction of natural resources..

One of the latest victims was Paulo Paulino Guajajara, a 26-years-old Guajajara leader, who was killed in November in the Araribóia Indigenous Reserve, Maranhão state. He was the fourth “Guardian of the Forest”, a group of 120 Guajajara activists fighting illegal logging in the Araribóia reserve, to be killed.

The Brazilian government failed to take effective steps to ensure justice for these killings and continued to criminalize human rights defenders, especially those working on issues related to the environment, land and territory, creating an environment of fear and making Brazil an even more dangerous place to defend human rights.

Police and security forces

Federal and state authorities adopted a hard-line rhetoric that fuelled increasing violence directed at the public in general and human rights defenders in particular.

Rio de Janeiro State Governor Wilson Witzel made statements and carried out actions related to the so-called "war on drugs" which continued to be used as a pretext for militarized police interventions marked by high levels of police violence, crimes under international law and human rights violations. In this context, killings of alleged offenders, especially those that security officials claimed to be involved in drug trafficking, rose.

Between January and July, according to official figures, 1,249 people were killed by police in Rio de Janeiro. According to a study by the Rio de Janeiro State Prosecutor's Office, this represented a 16% increase over the same period in 2018 (1,075). Among those killed by police on active duty were five black children living in favelas and deprived communities on the outskirts of cities in the metropolitan region of Rio de Janeiro. The study led the Rio de Janeiro Public Prosecutor's Office to state that "Rio has the deadliest police in Brazil, although it is not among the ten most violent states in the country."

The generalized violence also resulted in high levels of police deaths. According to the Military Police of the State of Rio de Janeiro, between January and September 2019, 39 police officers were killed in the state, constituting a decrease in the number of police deaths in Rio de Janeiro.

Human rights defenders

In line with statements made during the presidential election campaign in which he repeatedly criticized the work of NGOs, President Bolsonaro created the Department for Relations with Non-Governmental Organizations through the introduction of legislative measures, such as Provisional Measure 870 and the Decree No. 9,669/2019, which appeared designed to interfere unduly in the activities of the civil society organizations operating in Brazil or create onerous bureaucratic procedures that would make it more difficult for them to operate. These measures were amended by the National Congress in the wake of mobilizations by civil society organizations.

The president's vilification of NGOs continued during 2019. For example, on 21 August in a statement to reporters against a background of the 82% increase in forest fires in the Amazon, he accused civil society organizations of being responsible for fires in the Amazon: "So, there may be, yes, there may, I am not saying, criminal action by these 'ongueiros' [members of NGOs] to draw attention against myself, against the government of Brazil. This is the war we face".

In a similar vein, on 25 October, Environment Minister Ricardo Salles insinuated, in a social media post, that the international organization Greenpeace could be responsible for the oil spill affecting Brazilian waters and more than 2,250km of coastline in northeastern Brazil, causing another environmental and human rights crisis in the country. When questioned by journalists about the Environment Minister's statements, President Bolsonaro stated: "For me this is a terrorist act. For me, this Greenpeace only hinders us". On 30 October, Greenpeace filed a lawsuit in the Federal Supreme Court against the Minister of the Environment for defamation. The outcome of the lawsuit was pending at the end of the year.

Impunity

One year after human rights defender Marielle Franco and her driver Anderson Gomes were killed in the city of Rio de Janeiro, the Rio de Janeiro State Civil Police arrested retired police officer Ronie Lessa and former police officer Elcio de Queiroz for the killings. On 14 March, fourteen experts and rapporteurs from the United Nations and the Inter-American Commission on Human Rights, in a note released in Geneva, acknowledged the work carried out by police investigators and prosecutors to uncover the truth and the progress made in the case. However, they stressed that more needed to be done to establish the motives for the attack and uncover those behind it and they urged the authorities to conclude the investigation as soon as possible by bringing all those suspected of criminal responsibility for the crime, including those superiors who may have ordered, authorized or consented the crime, to justice in fair trials and providing reparation for the families.

Marielle Franco had been an outspoken supporter of the rights of black youth, women, those living in poverty, lesbian, gay, bisexual, transgender and intersex people, and the victims of police violence in Rio de Janeiro. Allegations that President Bolsonaro's family had links with those responsible for the killing were dismissed by the authorities. Nevertheless, the delay in resolving the case fuelled concerns that senior governmental figures could be implicated in the killing.

In July, the UN High Commissioner for Human Rights wrote to the Brazilian authorities regarding the case of 16-year-old Davi Fiuza, who was the victim of enforced disappearance in Salvador, Bahia state, in 2014. The Commissioner reiterated previous recommendations in the case and requested information to explain why the results of investigations concluded by the Civil Police Unit in April 2016 were transmitted to the Public Prosecutor's Office only on 7 July 2017 and again on 2 August 2018. The trial was transferred to the military court and there was no information on the process.

[1] [Brazil: Authorities must investigate and prosecute those responsible for destruction of the Amazon](#) (News story, 2 September)

[2] [Brazil: Risk of bloodshed in the Amazon unless government protects Indigenous peoples from illegal land seizures and logging](#) (News story, 7 May)

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