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الأمم المتحدة

Distr.
GENERAL

الجمعية العامة



A/HRC/4/37/Add.2
19 December 2006

ARABIC
Original: ENGLISH

مجلس حقوق الإنسان
الدورة الرابعة
البند ٢ من جدول الأعمال المؤقت

تنفيذ قرار الجمعية العامة ٢٥١/٦٠ المؤرخ ١٥ آذار/مارس ٢٠٠٦
المعنون "مجلس حقوق الإنسان"

تقرير مقدم من الممثلة الخاصة للأمين العام المعنية بالمدافعين عن
حقوق الإنسان، السيدة هينا جيلاني

إضافة

البعثة التي قامت بها إلى البرازيل*

* يُعمم موجز تقرير هذه البعثة بجميع اللغات الرسمية. أما التقرير نفسه فيرد في مرفق هذا الموجز ويعمم باللغة التي قدم بها فقط.

(A) GE.07-10619 140307 150307

موجز

قامت الممثلة الخاصة للأمين العام المعنية والمدافعين عن حقوق الإنسان بزيارة قطرية إلى البرازيل في الفترة من ٥ إلى ٢١ كانون الأول/ديسمبر ٢٠٠٥ اجتمعت أثناءها بمسؤولين كبار من الحكومة وبطائفة واسعة من المدافعين عن حقوق الإنسان وبممثلي منظمات حكومية دولية وممثلي دول. وكان الهدف من هذه الزيارة هو تقييم حالة المدافعين عن حقوق الإنسان في البرازيل ودورهم.

وبعد الفرع الافتتاحي، تصف الممثلة الخاصة في الفرع الثاني الأوساط المعنية بحقوق الإنسان واستراتيجياتها المعتمدة للتصدي لمختلف التوجهات التي تفضي إلى انتهاك حقوق الإنسان. ويبرز هذا الفرع النضال من أجل إعمال الحقوق الاقتصادية والاجتماعية والثقافية، ويؤكد الأهمية السياسية والاجتماعية للحركات الاجتماعية في البرازيل وأهميتها بالنسبة لوضع إطار دستوري متين من أجل النهوض بحقوق الإنسان وتعزيزها. وتخلص الممثلة الخاصة إلى أن هذه الحركات الاجتماعية تمثل رصيماً للديمقراطية في البرازيل يضيف قيمة لها. وقد طوّرت هذه الحركات طرائق للعمل والمشاركة على الصعيد الاجتماعي، وتعكف على وضع ضوابط عمل تحد من إمكانية استخدام العنف في إطار العمل الاجتماعي. وتعتقد الممثلة الخاصة أنه ينبغي أن يكون هناك اعتراف أكبر بدور المدافعين عن حقوق الإنسان في تعزيز ومساندة هذه الحركات.

وفي الفرع الثالث، تبحث الممثلة الخاصة المناخ الذي يعمل فيه المدافعون عن حقوق الإنسان وتخلص إلى أنه، على الرغم من التطورات الإيجابية، يوجد ما يدعو إلى القلق الشديد بشأن سلامة المدافعين عن حقوق الإنسان. فهم ما زالوا يتعرضون للتهديد والأذى بسبب جهودهم الرامية إلى إعمال الحقوق الاجتماعية والاقتصادية والبيئية والثقافية؛ وسعيهم إلى فضح انتهاكات حقوق الإنسان ووضع حد للإفلات من العقاب على اقتراف هذه الانتهاكات؛ ومقاومتهم للتمييز والتهميش.

وفي الفرع الرابع، يصف التقرير بإيجاز المبادرات التي اتخذتها الحكومة والتي من شأنها إيجاد بيئة ملائمة لأنشطة الدفاع عن حقوق الإنسان. ومع ذلك، تدرك الممثلة الخاصة وجود عقبات كأداء يتعين على الحكومة تذليلها لكي تتحقق هذه الإمكانيات، كما تدرك أنه ينبغي سد الثغرات القائمة بين السياسة العامة المعلنة وتنفيذها، وبين إنشاء الآليات وتفعيلها.

وفي الفرع الخامس، تتناول الممثلة الخاصة التوجهات التي تعرقل التقدم فيما يتعلق بكفالة حماية المدافعين عن حقوق الإنسان من التعرض للإيذاء والعنف. وهي تناقش في هذا السياق، دور الوكالات الحكومية، والسلطة القضائية، والبرلمان، ووسائل الإعلام. كما تحدد العوامل السلبية الرئيسية التي تؤثر على سلامة المدافعين عن حقوق الإنسان وعملهم. ومن هذه العوامل، استمرار الإفلات من العقاب في حالات انتهاك حقوق المدافعين عن حقوق الإنسان، ومحاولات تشويه سمعتهم وأنشطتهم، والتفاوت بين الحكومة الفدرالية وحكومات الولايات في الالتزام بمعالجة المشاكل.

وأخيراً، تقوم الممثلة الخاصة بصياغة ما توصلت إليه من استنتاجات وتوصيات لتنظر فيها الحكومة.

Annex

**REPORT OF THE SPECIAL REPRESENTATIVE OF
THE SECRETARY-GENERAL ON THE SITUATION
OF HUMAN RIGHTS DEFENDERS ON HER VISIT
TO BRAZIL (5-21 DECEMBER 2005)**

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I. INTRODUCTION

1. Pursuant to Commission on Human Rights resolutions 2000/61 and 2003/64, the Special Representative of the Secretary-General on the situation of human rights defenders conducted an official visit to Brazil from 5 to 21 December 2005 at the invitation of the Government.
2. The Special Representative would like to thank the Government of Brazil for the excellent cooperation extended to her in preparation of and during her mission. She wishes in particular to acknowledge the support she received from the staff of the Ministry of Foreign Affairs and of the Special Secretariat for Human Rights throughout her visit. During her visit she was able to meet with the Minister of Foreign Affairs, the Ministers of Mines and Energy and of Justice, the Ministry of Labour, the Head of the Secretariat for Human Rights, the Vice-President of the Federal Supreme Court, the President of the Superior Court of Justice and other senior members of Government and parliament. She regrets that she did not get the opportunity to meet with the President.
3. In addition to Brasília, the Special Representative visited the States of Pará, Bahia, Pernambuco, São Paulo and Santa Catarina where she had the opportunity to meet with federal authorities, members of state legislatures and the judiciary, and law enforcement agencies. She also met with human rights defenders engaged with a broad range of human rights issues. She thanks all organizations and individuals who worked hard to coordinate her meetings with the defender community. Their efforts were instrumental in securing a particularly rich non-governmental programme during her visit. She also thanks the Office of the United Nations Resident Coordinator for its assistance with the programme and logistics of the visit.

II. HUMAN RIGHTS DEFENDERS IN BRAZIL: AN ASSET FOR DEMOCRACY

A. An informed and vibrant civil society

4. In the course of her visit, the Special Representative met with a host of civil society representatives remarkable by their number, enthusiasm and level of collective organization. She was struck by the vibrancy of the human rights movement in Brazil, despite the difficult challenges that the social and political climate in the country presents.
5. It is generally acknowledged that the struggle against military dictatorship greatly contributed to building awareness of civil and political rights and to forming strong national networks of non-governmental organizations (NGOs). During that period, members of the Catholic Church, political organizations, the academic community and intellectuals also created centres for human rights education and developed pastoral social initiatives in defence of human rights. Civil society organizations working on human rights continued to grow in the 1990s. Initially, most organizations concentrated their efforts on reporting violations of civil and political rights. However, they gradually expanded the scope of their mandate and have now adopted an inclusive approach to the defence of human rights, focusing in particular on economic, social, environmental and cultural rights and on discrimination based on race, sexual orientation and gender.

6. The struggle for democratic rights during the military dictatorship generated popular mobilization that developed into important social movements. While many defenders work within NGOs, much of the human rights activity in Brazil is rooted in collective action at the grass-roots level. By organizing themselves at the federal as well as the state level, these organizations and groups have been able to impact on national as well as local policies. Defenders have put in place thematic human rights networks, as well as regional and national platforms, including a well-coordinated national network of human rights defenders.

B. Social movements and emerging trends in social action

7. The Constitution of Brazil marks extraordinary progress in the consolidation of fundamental rights and guarantees and is one of the most comprehensive such documents in this respect. The constitutional framework has been instrumental in providing an impetus to activities for the promotion and protection of human rights, particularly in the field of economic, social and cultural rights. The Special Representative has particularly noted article 5 XXIII which guarantees the right to property, but makes it conditional on the socially beneficial use of the property. This provision is the nexus for the issues around which social struggles and environmental rights activism are constructed. Furthermore, the right to popular participation enshrined in the Constitution, and the law, provides a sound basis for interaction and constructive engagement between State institutions and human rights defenders. This is manifested in the role of human rights defenders. While there is strong criticism of the failures of Government, the defenders' community genuinely seeks to assist the Government in devising policies and initiatives to address pressing issues and to alleviate conditions that result in human rights violations.

8. Constitutional provisions have allowed social movements to use the legal forums to overcome the inadequacy of laws or the absence of enabling policies for the realization of guaranteed rights. They also give legitimacy to defenders' demands and advocacy for reform or implementation of laws and policies that enhance the recognition of and respect for human rights.

9. Notable examples of this trend are the Movement for the Right to Housing (MSTC) and the Landless Workers Movement (MST). These movements have relied on constitutional provisions to legitimize the occupation of property that does not fulfil its social function or has been illegally appropriated by land grabbers.

10. During her visit, the Special Representative had the opportunity to examine the situation of defenders involved in social movements, such as those for the rights of landless rural workers, peasants, indigenous communities and people of African descent, sexual minorities, the homeless, and people affected by dams.

11. The Special Representative has observed with interest the manner in which social action strategies are increasingly being influenced by the human rights Paradigm. There is a growing consciousness amongst activists that they are entitled to the protection of international human rights law and standards in conducting activities for the promotion and protection of economic,

social and cultural rights. This consciousness has instilled a degree of discipline in collective action that has diminished the scope of violence emerging from social action. Interaction between movements and human rights organizations has also become more meaningful and mutually reinforcing.

12. The Special Representative had the opportunity to visit a settlement organized and managed by MST in the State of Pará. She witnessed how this movement has consciously incorporated democratic structures in its organization and is promoting social responsibility amongst the beneficiaries of its activities. The settlements of landless people created by MST function on the basis of the principle of participation of all members and follow rules of self-governance that are, at least at the conceptual level, also sensitive to gender participation. The system that they have evolved emphasizes a decentralized structure of leadership and authority, and allows effective national coordination of its activities.

13. The Special Representative believes that these social movements constitute an asset for and add value to Brazilian democracy. They have developed modes of social action and participation and are evolving rules of engagement that limit the possibility of the use of violence in social action. She believes that this aspect of the role of defenders in social movements must be publicized by the State as well as the media.

III. SECURITY OF HUMAN RIGHTS DEFENDERS AND FACILITATION OF THEIR ACTIVITIES

14. It is unfortunate that in real terms neither the return to democracy and a sound legal framework for the defence of human rights, nor the presence of an active and experienced civil society has provided sufficient protection to human rights defenders or their activities. In their efforts to attain social, economic, environmental and cultural rights; in seeking to expose human rights violations and to end impunity for these violations; and in resisting discrimination or marginalization, human rights defenders continue to be threatened and harmed.

A. Attacks against the physical integrity of human rights defenders

15. In the course of her meetings, the Special Representative was deeply perturbed by the numerous accounts of assassinations, attempts on their lives and threats against defenders. She notes that the Pastoral Land Commission (CPT) reported that 39 leaders of rural workers were killed in 2004 and 38 in 2005.

16. In rural areas such as the State of Pará, most of the violence against defenders is rooted in conflicts over land, use and control of natural resources, prevention of environmental degradation, and preservation of the rights of minorities and indigenous communities and of rural workers. In the absence of effective State protection against powerful social forces and economic interests, the rural population is left vulnerable to exploitation. Their efforts to organize for their survival or to secure their rights are frequently suppressed through violence. Owners of large estates, lumber companies and other national and international economic interests are amongst those responsible for the violation of the rights of peasants, rural workers, indigenous people and Quilombola

communities¹ and those working for rural welfare. In a majority of cases powerful non-State actors, who frequently benefit from the collusion of local and State authorities, perpetrate these acts. The Special Representative was deeply distressed at the plight of widows of killed rural workers who are now leading the movement and who face daily threats in the form of attempts to discredit them socially and undermine their work by labelling them as prostitutes.

1. Land rights activists

17. While the Constitution provides for the right to land, the implementation of this provision has largely been initiated by rural communities themselves, with powerful forces resisting realization of the social objectives of the Constitution through violent means. Leaders of these communities have been targeted in order to silence activists and weaken the movements. Leaders of rural workers' unions and land rights movements have been killed or suffer daily threats to their lives and their families because of their struggle against land-grabbing, environmental destruction and slave labour. The Special Representative was told that in the State of Pará alone, CPT has reported 97 assassinations of rural workers and 400 cases of death threats since 2000.

18. The reports received by the Special Representative show that in most cases land rights activists are murdered by hired gunmen or private militias commissioned by powerful landowners. Generally, the violence is committed in order to punish the leaders for their protest against illegal acquisition of land, or for their support of landless poor people occupying vacant and non-productive land. The murder of Sister Dorothy Stang, a member of CPT who had been active in denouncing threats and intimidation against rural workers by owners of a large estate, loggers and *grileiros* (illegal land grabbers) in Anapu in 2005, is illustrative of this pattern. Dorothy Stang was shot dead by two men reportedly hired by a large estate owner from the area shortly after she participated in a public hearing organized by federal authorities to tackle the issue of agrarian reform and the problem of violence against human rights defenders. During the visit of the Special Representative, two of the accused in this case were tried and sentenced.

19. Another example of this trend is the situation of the rural workers' union (STR) of Rondon do Pará, an organization fighting for the rights of rural workers and against slave labour which has seen three of its leaders murdered in the past six years. Amongst cases reported to the Special Representative is that of Dezinho, the then President of the organization, who had been receiving threats because of his denunciation of the illegal appropriation of the land and was killed in 2000. In 2002, "Brasilia", then President of STR in the village of Castelo dos Sonhos, was also killed. Two years later, Ribamar Francisco dos Santos, head of the organization in Rondon do Pará, was also killed. Maria Joel da Costa, the current President, repeatedly receives death threats and is

¹ Afro-Brazilian communities descending from former settlements of runaway slaves (*quilombos*).

warned against defending rural workers. Considering the pattern of past assassinations of leaders of the organization, the Special Representative is deeply apprehensive regarding her safety.²

20. Land rights activists also suffer constant harassment, intimidation and threats from large estate owners, often in collusion with local authorities. Their villages and communities are regularly raided and they are illegally evicted by private militia, in many instances with the help of local police forces. In June 2003, in the State of Pará, João Alberto Inácio Júnior, a leader of the landless community of Rasgadinho, suffered an armed attack by gunmen identified as employees of a local landowner who raided and shot at his home.

2. Indigenous and Quilombola communities

21. Article 231 of the Constitution guarantees the rights of indigenous communities and the law provides for the restoration of land historically owned by these communities. The rights of the Quilombola communities are protected by article 68 of the Act on the Transitional Constitutional Provisions.³ However, the process of demarcation and repossession of these lands has also been resisted and conflict has ensued. These conflicts have created an unstable environment in which the safety of leaders of indigenous and Quilombola communities has been seriously jeopardized. The Special Representative had the opportunity to travel to the Truká Indian reservation in Cabrobó (Pernambuco) and met with representatives of several communities including the Truká, Xukuru, Pankará, Pipipã, Kapinawá, Atikum and Tubalala and with the Indigenous Missionary Council (CIMI). She was able to observe that in many instances, indigenous and Quilombola communities live in constant fear of harm to themselves and to their families.

22. CIMI reported that in 2005, 33 members of indigenous communities were murdered at the instigation of powerful landowners, in many cases with the collusion of local authorities and the direct support of local police forces. Indigenous communities have been targets of numerous attempted killings and death threats, especially in the process of repossession of land. For instance, the leader of the Truká people, who had been actively involved in the process of the restoration of land to this community, was murdered together with his son in Pernambuco, allegedly at the hands of the military police during a peaceful celebratory ceremony. CIMI points out that most of these crimes are not registered as human rights violations but as “passion crimes”, mostly perpetrated by unknown assailants.

² The Government of Brazil, in its comments on the present report, has informed the Special Representative that Maria Joel da Costa is currently under police protection through the Programme on Human Rights Defenders of the State of Pará, functioning under the supervision of the National Coordinating body on Human Rights Defenders.

³ As reported by the Government in its comments on the present report.

3. Environmental rights activists

23. Human rights defenders working for the preservation of the environment become even more vulnerable because of the remoteness of the areas in which they are active. It was reported that many defenders who denounce illegal logging and large-scale fishing and those working to preserve wildlife habitats in the Amazon region and in the south and north-east regions of the country face attacks and threats against their lives.

4. Attacks against officials and elected representatives

24. State and federal officials, civil servants and elected representatives working to enforce the rule of law in order to protect human rights have also suffered attacks and received threats. In many cases they are targeted with the apparent intention of preventing the establishment of State authority in the remote rural areas, so that violations of social and economic rights of the rural population remain unaddressed.

25. Judges who attempt to investigate organized crime and human rights abuses and bring perpetrators to justice have suffered attempts on their lives; some have been assassinated. In March 2003, Alexandre Martins de Castro Filho, a judge and a member of the federal Government “task force” to investigate organized crime in the State of Espírito Santo, was murdered by two men on motorcycles outside his gym.

26. A number of civil servants from federal and state institutions such as the National Institute for Agrarian Reform (INCRA), the National Indian Foundation (FUNAI) or IBAMA have also been the targets of killings and threats for attempting to carry out federal policies on agrarian reforms, land demarcation and environmental protection. In May 2005, an INCRA employee in the State of Bahia was ambushed, surrounded and threatened by a group of 200 armed men while conducting a demarcation exercise. In 2004, three labour inspectors were assassinated in the State of Minas Gerais while carrying out an inspection related to allegations of the use of slave labour.

27. In the State of Pará, the President of the Human Rights Commission of the state legislative assembly, who headed a Parliamentary Investigative Commission (CPI) on child prostitution, was threatened on Assembly premises by other state representatives involved in the cases being investigated.

5. Defenders working in urban settings

28. In the urban context defenders have suffered the most severe attacks when publicly denouncing police violence, torture and ill-treatment in prisons and attempting to tackle the issue of organized crime, or so-called “extermination groups”.

29. A number of defenders working to denounce the operations of death squads have been killed and others live in hiding under constant threat. For example, two witnesses of arbitrary

executions, in Pedras de Fogo (Pará) and Santo Antônio de Jesus (Bahia), were murdered shortly after having met with the Special Rapporteur on extrajudicial, summary or arbitrary executions during a visit to Brazil. More recently, Ana Maria dos Santos, founding member of the Santo Antônio de Jesus Human Rights Forum, continues to receive threats. These threats are related to the organization's denunciation of the "social cleansing" carried out by death squads in the municipality of Santo Antônio de Jesus in Bahia, reportedly with the support of State authorities and local businessmen. On the issue of extermination groups, the Special Representative draws attention to the report of the Special Rapporteur on extrajudicial, summary or arbitrary execution (E/CN.4/2004/7/Add.3) that also depicts several cases of human rights defenders working in the urban areas of the country.

30. NGO members monitoring and reporting on the practice of torture by the security forces and in Brazilian prisons have also been the targets of numerous threats. In January 2005, Maria Conceição Paganele, President of the Associação das Mães e Amigos da Criança e do Adolescente em Risco (AMAR), a mothers' organization in São Paulo, started receiving regular death threats over the phone and being followed. In connection with her exposure of a case of collective torture in a detention centre for adolescents (FEBEM), which had resulted in the imprisonment of the staff involved. Social workers and educators also reported that their activities on behalf of street children or adolescents are regularly obstructed. In some instances, security forces are reported to have physically assaulted educators and the children with whom they work.

31. Journalists reporting on human rights issues, in particular those investigating death squads and corruption, have been killed. Others have been assaulted by police forces and in a few instances by politicians, or sued in court for libel, insults or defamation. In April 2004, a radio show host who had denounced local government officials' involvement in organized crime was shot dead in Matto Grosso do Sul. As a result of this situation, journalists are forced to exercise a degree of self-censorship out of fear.

32. Activists advocating the rights of lesbian, gay, bisexual and transgender (LGBT) persons have also been targets of threats. In most cases these threats emanate from non-State entities. For instance, the Directors of Coturno de Venus, a lesbian feminist association in Brasilia, reported receiving death threats from a neo-fascist organization in September 2005 because of their activities on the occasion of the celebration of the day for lesbians in August 2005. In another instance, Claudio Alves dos Santos, an activist for the rights of homosexuals who worked for the Referral Centre against Homosexual Violence and Discrimination in Rio de Janeiro, was killed after being severely beaten and tortured in October 2005.

6. A climate of fear

33. Considering the high number of defenders who have been killed throughout Brazil, the Special Representative voices her most serious concern that death threats against defenders are for the most part not investigated by local and federal authorities. Human rights organizations repeatedly pointed out that in most cases defenders who were killed had previously reported threats to authorities but that no action had been taken. They particularly pointed out the lack of action by the authorities on the numerous threats received by Dezinho, "Brasilia" and Sister Dorothy before

their deaths.⁴ The police forces with whom the Special Representative met in Pará generally admitted that threats are often not investigated because of their categorization as “lesser crimes” within domestic law and lack of available resources for investigation.

34. In certain states, defenders claimed that there were “hit lists” containing some of their names along with the amount of “prize money” that would be paid for their execution. They reported that in Pará, despite the publication by CPT of the names of defenders whose names had been placed on such hit lists no investigation had been undertaken by the State authorities. The Special Representative, however, was not shown the list published by CPT.

35. The number of cases reported to the Special Representative indicates a pattern of violations against human rights defenders for which there is little accountability or deterrence. This has created an environment in which human rights defenders live and work in a state of constant insecurity. A number of defenders have had to leave their homes and families and abandon their work out of fear for their safety. The Special Representative thanks the defenders who had been in hiding for years but who chose to meet with her despite the obvious risks.

B. Criminalization of human rights activities and of the mobilization for collective action

36. Human rights defenders in the south and in urban centres of the country reported that their work is being increasingly hampered by the criminalization of their activities by State authorities. Defenders, especially those working in social movements, face repeated arrests and prosecutions. Many are under surveillance and suffer from the violent behaviour of security forces.

37. The Special Representative was informed that in November 2004 an internal police memo was discovered instructing the civil police in São Paulo to monitor trade unions, NGOs and social movements such as MST.

38. She received reports of arrests of several human rights defenders, particularly leaders of social movements who had organized or participated in collective public action. The Movement of People Affected by Dams (MAB) reported that its leaders and members are constantly arrested and detained because of their action in defence of those affected by dams. In one instance, 10 MAB coordinators in Campos Novos were arrested under a judicial order for

⁴ In the case of Sister Dorothy Stang, the Government informed the Special Representative, in its comments on the report, that in fact she was offered physical protection by the Government before she was killed, but she had refused the offer. The Government therefore maintains that “this information demonstrates action by official authorities regarding her situation before her regrettable death”. The Special Representative acknowledges the position taken by the Government in this particular case. However, in the light of the section of the report on the National Programme for the Protection of Human Rights Defenders (paras. 55-62), she maintains her conclusion contained in paragraph 35.

“preventive custody” just a few days before a demonstration scheduled to take place on 14 March for the international day for the struggle against dams. They were held in detention for 25 days.

39. Human rights defenders face numerous civil and criminal proceedings linked to their activities to mobilize for peaceful collective action to protest or resist violations of human rights. Such activities have resulted in charges against defenders of “forming criminal gangs”, “obstructing public roads”, creating “public disorder”, “civil disobedience”, “inciting to crime”, “intimidating the police”, “trespassing”, “libel and defamation” and “material damages”. In several instances, malicious prosecutions have been brought against defenders on fabricated criminal charges in order to discredit their work. MAB reported that 107 of its leaders currently face criminal charges, with some individuals accused in as many as 15 proceedings.

40. The Special Representative was told that in the State of Pará, six rural workers were arrested in 2002 at the Manduacari estate in Anapu. They were accused of “forming gangs”, of “mugging” and of “carrying weapons” and detained for four months for having participated in the occupation of land that had already been classified as unproductive by INCRA.

41. In some instances members or sympathizers of human rights movements and organizations have also been charged. It was reported to the Special Representative that Ariel de Castro, a human rights lawyer and member of the National Human Rights Movement, currently faces charges of “libel” and “false documentation” in connection with an interview he gave to the press, in which he had raised concerns about the treatment of children and adolescents in detention.

42. In some cases prosecutions have resulted in heavy sentences. MAB reported some 36 of its leaders and members prosecuted in criminal suits had received sentences ranging from 1 to 30 years of imprisonment.

C. Violent policing of collective action

43. The Special Representative was seriously concerned about the role of law enforcement in suppressing public gatherings and the use of excessive force against peaceful assemblies. She received credible accounts that in several states heavily armed state military police had been deployed at peaceful demonstrations in an attempt to intimidate protesters.

44. On 8 March 2005, the military police in Minas Gerais violently broke up a protest against the construction of the Jurumirim Dam, reportedly beating up 35 farmers including women and children. Student organizations in Florianópolis also reported that their demonstrations to demand free public transportation were met with violence by the police who used rubber bullets and beat demonstrators. Similar violent action against student demonstrations took place in Recife, Pernambuco, in November 2005. In some instances, the Army is reported to have been called in to police protests.

45. It was reported that peaceful sit-ins and occupations of land and buildings are also frequently dealt with violently. Evictions from land occupation sites are often carried out with violent methods by massive numbers of heavily armed police officers. The Special Representative

heard reports of houses being burnt, encampments being destroyed by bulldozers, shots being fired, and defenders and community members being insulted, brutalized and humiliated. She was informed that in a number of cases evictions were arbitrarily carried out by armed private militias, who are sometimes off-duty officers of the military police, without judicial authorization.

46. Defenders reported the frequent and indiscriminate use of so-called “non-lethal weapons” such as rubber bullets and, in some instances, of live ammunition against peaceful demonstrators in order to disperse assemblies. Such use is a matter of grave concern to the Special Representative. The authorities in the states she visited could not give any satisfactory answers to her questions regarding procedures that would streamline authorization and monitoring of such use.

47. While she does not discount allegations made by some state governments of violence accompanying collective action in some instances, she has noted with grave concern that peaceful public action for the defence of human rights has frequently been met with the use of disproportionate force. She has received credible accounts from human rights and other civil society organizations, including video recordings of demonstrations, that document the brutality used against peaceful protestors by the police.

IV. MEASURES TAKEN BY THE GOVERNMENT, OBSTACLES AND SHORTCOMINGS

Institutions and programmes

48. The Special Representative appreciates the initiatives that the Federal Government has taken to give prominence to the promotion and protection of human rights in its policies. The fact that Brazil is now a signatory to the principal international human rights treaties also enhances the prospects for human rights protection and respect for the work of human rights defenders.

49. There is also a visible interest at the federal level in strengthening national institutions and mechanisms to deal with human rights abuses. She found that the work of human rights defenders is generally respected within the governmental structures and that authorities engage with the civil society and seek its participation and involvement in the design and implementation of human rights initiatives. Two examples of such cooperation are the National Council to Promote Racial Equality, which includes civil society organizations in its composition, and the Witness Protection Programme (PROVITA) based on cooperation between a federal ministry and an NGO that is administering the programme at the grass-roots level.

National Programme on Human Rights

50. At the federal level, the Government has set up a number of institutions and programmes to tackle human rights issues. In 1996, it launched the National Programme on Human Rights (NPHR), which was amended in 2002 and includes civil and political as well as social, economical and cultural rights in its agenda. A number of defenders emphasized that the inclusion of human rights in national policies represents progress. It is, however, still a very recent step and decisive measures have yet to be taken if an effective human rights system is to be established to deal with the complex problems that exist.

The Special Secretariats for Human Rights and Racial Equality and the Ministry for Women's Affairs

51. In 1997, the national Special Secretariat for Human Rights (SEDH) was established with the mandate to coordinate and support the implementation of the National Programme. While the creation of this Secretariat is a major step forward, the mandate of the Secretariat is too limited and it has yet to be given political weight within the Government and the resources necessary to achieve its objectives. The ministerial status of the Secretariat was recently restored after protest by human rights organizations against the downgrading of the department. Despite the several weaknesses pointed out by defenders that hamper the effectiveness of this initiative, the Special Representative has noted the sensitivity of the Special Secretariat on the issue of security for defenders. She is, therefore, optimistic about the role that this institution can play in creating an enabling and safe environment for defenders to conduct their work freely in all fields of human rights that they are engaged in.

52. The Federal Government has also created a Special Secretariat for Racial Equality with the mandate to coordinate programmes for the rights of the Afro-Brazilian population, and a Ministry for Women's Affairs. Both these initiatives are signs of the Government's commitment to address issues of inequality and social justice for the more marginalized sections of the population.

Human Rights Commission of the National Parliament

53. The Special Representative met with members of the Human Rights Commission of the National Parliament, which has been active in setting up various commissions to investigate and inquire into specific human rights issues. They indicated that the Commission had received several public complaints regarding human rights violations. However, a lack of resources had constrained their ability to be fully functional so that they are not able to travel and investigate all the complaints that they received.

54. The human rights committees of the parliament and state legislative assemblies are generally active on human rights issues and are accessible to human rights defenders. However, the legislature as an institution needs to be more sensitive to human rights issues and assign higher priority to the protection of activities for the defence of human rights in their legislative agenda. There is a general apprehension that political polarization within the legislative bodies has undermined many human rights-related initiatives.

National Programme for the Protection of Human Rights Defenders

55. In 2003, SEDH appointed a working group which, over a period of four months, developed guidelines for what ultimately became the Permanent State Policy for the Protection of Human Rights Defenders. The National Programme for the Protection of Human Rights Defenders was officially launched in October 2004.

56. The programme aims at providing physical police protection to defenders, setting up a database to register defenders at risk, developing strategies to address impunity and sensitizing the population on the role and importance of defenders. A National Steering Committee was set up at the federal level to coordinate and monitor the overall implementation of the programme. The

Committee includes representatives of the civil society, the parliament, the Federal and Transport Police, the Federal Public Ministry, and officials of state governments and members of the state judiciary representing the steering committees established at state level. Pará, Pernambuco and Espirito Santo were chosen to initiate pilot programmes for defenders' protection.

57. The civil society has welcomed the establishment of this programme, but points out several institutional and methodological weaknesses that have slowed its progress. As yet Pará is the only state where an organized structure to implement the pilot programme has started working. The Special Representative was able to attend one of the Pará steering committee meetings and noted the genuine efforts at cooperation between state authorities and the civil society. The committee has developed a strategy for the implementation of the programme in Pará and assessments of defenders at risk have started with a few defenders already receiving protection.

58. In Pernambuco, the steering committee was set only just prior to the Special Representative's visit and had just started to gather information about defenders at risk. So far no one is being protected under the programme. The programme is not yet functional in Espirito Santo.

59. NGOs expressed dissatisfaction with the structural design of the programme which assigns primary responsibility for its implementation to state authorities, with SEDH only acting as a coordinator. Considering that many violations reportedly occur at the hands of or in collusion with state authorities, especially the state police, the defenders do not find it realistic to expect local authorities to have the level of commitment needed to effectively protect defenders. It is apparent that there is much more public confidence in the Federal Police than the State Military Police. The Federal Police, however, have been reluctant to take on responsibility for the protection of defenders under this programme and have reportedly claimed that this is beyond the scope of its mandate.

60. NGOs are also concerned that the absence of guaranteed financial resources makes the sustainability of the programme uncertain. Both state and federal authorities have failed to secure the programme against such unpredictability. The situation of the pilot programme in Pará is a case in point. Failure of SEDH to arrange for federal funds for this programme has resulted in the police responsible for protection not being appropriately trained and the state authorities not being able to follow the agreed guidelines for protection. This has resulted in a lack of confidence in the programme and some of the defenders at risk have refused police protection.

61. In addition, defenders claim that requests for protection have often not received adequate responses. Despite the relatively better situation of the programme in Pará, defenders reported that only 5 defenders are currently being protected, whereas there are over 100 that are believed to be at risk. In São Paulo, despite a formal request to SEDH in February 2005, the President of AMAR was not provided with protection with the justification that the programme does not exist in the state, although the defender concerned did receive protection from the State Military Police for three months, by order of the then State Secretary for Justice and Citizenship of São Paulo.⁵

⁵ As reported by the Government in its comments on the present report.

Nevertheless, some defenders expressed dissatisfaction with the programme to the extent that they were considering withdrawing from the National Steering Committee. Others were sceptical about the efficacy of the programme as without more comprehensive strategies to promote the work of human rights defenders, physical protection was meaningless.

62. Despite the reservations expressed in relation to the initiatives undertaken by the Government, the Special Representative is optimistic about their potential for the advancement of human rights and the protection of human rights defenders. She is, nevertheless, aware that there are serious obstacles that the Government has to overcome to fulfil that potential. She also agrees with the view that serious concerns regarding the situation of human rights defenders persist in Brazil because of a wide gap between the declaration of the policy and its implementation, and between the creation of mechanisms and their effectiveness.

V. TRENDS THAT IMPEDE PROGRESS IN ENSURING PROTECTION FOR HUMAN RIGHTS DEFENDERS

A. The role of State agencies

63. Based on the Constitution, which provides for the economic, social and cultural rights of different communities in the country, the State has created agencies with mandates to bring about conditions - economic, social and political - that provide an enabling environment for the defence of human rights. Failures on the part of these agencies to perform their functions adequately have placed defenders at risk. Lack of resources and failure to resolve disputes expeditiously, including because of bureaucratic delays, are only part of the problem.

64. In her interviews with some of these agencies, the Special Representative detected a serious lack of commitment to their responsibilities, and a lack of understanding of how their failure affects the security of human rights defenders. NGOs and activists drew her attention to the performance of INCRA and IBAMA, two agencies with critical roles in land- and environment-related issues. In numerous cases, denunciations of environmental damage by corporate interests and illegal land grabbing by socially powerful entities received no response from these agencies. Where investigations are initiated, they seldom yield any results or any measures to deter the perpetrators.

65. The failure of these agencies to respond to complaints and to take proactive measures against illegal actions creates a situation in which defenders are harmed. The Special Representative recalls the report of the External Commission of the Senate set up to monitor the Stang case which denounced the "continued neglect" with which State authorities handled complaints of invasions and violence against settlers of INCRA-created projects in Anapu, and of illegal deforestation of areas assigned to INCRA projects in 2003.

66. Land rights activists underlined that delays in the implementation of declared policies perpetuate land conflicts and directly affect their security. It was reported that INCRA was unable to ensure timely surveys of land for plotting, registration, demarcation and repossession needed to

legalize settlement project areas. Expropriation of property by INCRA, in particular, only occurs when there is popular pressure through occupation of land by the landless. This compelled social movements to use collective action to pressure institutions to take action. This compulsion, at times, has created situations that are volatile and dangerous for defenders.

67. In a few instances, defenders reported that some representatives of institutions in charge of dealing with human rights, notably IBAMA and FUNAI, have actually obstructed their work. Allegations were made before the Special Representative that members of IBAMA were involved in illegal timber operations. It was alleged that their collusion had allowed illegal entities not only to violate human rights of the rural population, but had also been a cause of violence against defenders. In Bahia State, NGOs working with the Kiriri community and leaders of the community reported that the FUNAI administrator in the area was restricting the freedom of movement of community members by forcing them to get travel authorizations to leave the reservation to sell their arts and crafts and had barred NGOs from entering the reservation. He is also reported to have made threats against a leader who was reporting violations to human rights NGOs.

68. Human rights defenders involved in the protection of the rights of indigenous people are also facing a similar situation. The Constitution provided for the demarcation of land historically owned by the indigenous communities by 1993. The failure of FUNAI, the federal agency responsible for this task, to complete this process and its controversial decisions regarding the exclusion of vast areas of land from its list has also fomented social conflict. Several leaders of indigenous communities have been killed or threatened with harm because of their struggle to secure their social and cultural rights.

69. Another problem that contributes to delays in the resolution of social conflicts is the lack of coordinated effort and development of a common understanding on the protection of rights amongst federal and state institutions in charge of implementing laws and policies. Even judicial action has, in many instances, contradicted the declared social policy of the State and has treated human rights activity as violations of law.

70. Defenders supporting or participating in the movement against dams are also made vulnerable because of the weaknesses of laws and policy or delays in their implementation. Disputes over expropriation of land for construction of dams and compensation for those affected dominate areas in which such projects are being undertaken. In the absence of an adequate legal framework and clear State guidelines, entitlements and compensation are determined on an ad hoc basis. Grievances emanating from this arbitrary system have led to occupation of construction sites by those affected and other forms of public collective action.

71. While organizations such as MAB are permitted to attend policy meetings and consultations held by the Ministry of Mine and Energy on the situation of those affected by dams, defenders feel that this participation is not very meaningful as their recommendations are not given sufficient consideration by the authorities. Defenders noted however that avenues for dialogue had been opened with the current Administration and acknowledged that "negotiation tables" had been set up as of 2003 which had brought some transparency to the process of creating new power plants. Nevertheless, they insisted that while dialogue does exist it has not brought about concrete

solutions as the Government does not offer protection for rights holders against private companies. Any mediating role that Government played was only formal and did not oblige the private companies involved to abide by any rules.

B. Persistent impunity

72. The Special Representative is encouraged by the steps undertaken by the Government to address the issue of impunity for violence against human rights defenders. In particular, she welcomes the investigation and prosecution of perpetrators in the killing of Sister Dorothy. She nevertheless remains concerned that in many other similar incidents impunity persists. In her meeting with the Ministry of Justice, the Minister conceded that so far only certain “high-visibility” cases have benefited from effective and speedy processes, while for the majority the system remains slow. It is true that many of the cases involving defenders suffer due to the weaknesses of the criminal justice process and the judicial system on the whole.⁶ Nevertheless, there are specific trends that are more visible in cases concerning defenders.

73. In many cases, investigations have not been carried out by the police or were never concluded. A number of prosecutors, judges and representatives of the Ministério Público confirmed that in many cases lack of appropriate investigation or evidence has made prosecution impossible. Often, the police have not executed arrest warrants issued against perpetrators, in particular influential landowners and their hired gunmen. Consequently, only a few perpetrators have ever been tried or sentenced for harming human defenders.

74. In an attempt to deal with impunity, defenders have been asking for the implementation of the constitutional amendment allowing for human rights-related crimes to become federal crimes and for such crimes to be transferred from the state to the federal judiciary. In the case of the murder of Sister Dorothy, the Supreme Court denied civil society pleas for the case to be tried in a federal court. It was, however, suggested to the Special Representative that the Federal Government was able to use the recent constitutional amendment as leverage in this case to ensure that the state court would not allow impunity to prevail.

C. Discrediting human rights defenders and their activities

75. It is generally acknowledged that human rights defenders working on civil and political rights have received recognition for their positive contribution to democracy and the rule of law. Many of them have been honoured with prestigious awards and some have even gained political prominence and have been elected to public offices. On the other hand, human rights defenders, particularly social activists, striving to protect and promote economic, social and cultural rights still face hostility from various sections of the society as well as the State. Defenders believe that this is largely due to their challenges to powerful social and economic interests in order to eliminate social and economic inequities and injustice.

⁶ The Special Representative refers to the assessment regarding impunity made by the Special Rapporteur on independence of judges and lawyers in his report on his visit to Brazil (E/CN.4/2005/60/Add.3).

76. The Special Representative noticed that in a number of states the security forces perceived human rights defenders and social activists as troublemakers. There is a tendency to equate poverty with crime and to use public fear of crime to depict human rights defenders as obstacles to the maintenance of public order. This is particularly true in the case of defenders advocating the rights of the landless and the homeless and participating in public action to resist or protest violation of their rights.

77. In a number of cases leaders of movements or NGOs have been the object of vilification campaigns aimed at discrediting their work. In São Paulo, defenders reported that the Governor had publicly accused the National Movement for Human Rights and AMAR of causing riots in FEBEM, the detention centre for adolescents in São Paulo.

D. The role of the media

78. Many defenders and some journalists who met with the Special Representative maintained that the mainstream media tends to promote views sympathetic to big businesses, large estate owners and conservative segments of society. Human rights issues rarely receive attention in the media. When their activities receive coverage, defenders are usually portrayed in an unfavourable light. In particular, social action for economic and social rights, even when it is peaceful, generally elicits a negative reaction from the media. The Special Representative was told that defenders from organizations such as MST working for land rights are often described as “criminals”, “guerillas” or “anarchists”, while members of MAB working for the rights of those affected by dams have been described as “hooligans” by some sections of the media. Even defenders working on civil and political rights have been described as “friends of criminals”, mostly because of their advocacy against the death penalty and for due process and the rule of law.

79. The media play a crucial role in depicting the work of human rights defenders and their struggles for justice. Public perceptions of defenders can be easily influenced by the tone of the media. Public support for human rights defenders and recognition of the value and legitimacy of their work are crucial for their safety. Perceptions created by the media are, therefore, of significance to the protection of human rights defenders. The State can play a role in building the correct image of human rights defenders and is able to influence the role of the media in this respect. If media reports continue to depict defenders as a threat to social order rather than as actors in the creation of conditions to defuse social conflict, it will become more difficult to ensure protection of their lives and physical integrity.

E. The role of the parliament and state legislators

80. While parliamentary committees have played a role in investigating human rights abuses and recommending measures to address issues raised in such investigations, parliament and state legislative assemblies have by and large been slow to adopt laws to strengthen the human rights framework. A draft bill seeking to amend the law establishing the Programme for the Protection of Victims and Witnesses (PROVITA) to add provisions and a protocol for the special protection of human rights defenders was deemed to be unconstitutional by the Chamber of Deputies and has been stalled in the parliament since 2004.

81. The fate of a report of the mixed Parliamentary Investigative Commission formed by the Human Rights Commission of the Federal Parliament illustrates the negative effects of political polarization on efforts to address human rights issues. After extensive investigation for two years, the Commission concluded that the root causes of rural violence are linked to ownership of land and the absence of land reform. The report was rejected and an alternative report was adopted, due to the powerful influence of large estate owners in the Congress. This alternative report recommended the adoption of two laws which defined land occupation as an “act of terrorism”. It also recommended the indictment of five MST leaders for the crimes of “formation of criminal gangs”, “extortion” and other felonies. Similar difficulties were encountered by the head of the mixed commission on summary execution whose report faced great difficulties before being approved due to opposition to its findings by some members of parliament.

F. The role of the judiciary

82. Human rights defenders have little faith in the judiciary and believe that, so far, it has not played any significant role in promoting social justice or protecting defenders from abuse and violence. In their opinion, the judiciary has by and large perpetuated the status quo and has not used its constitutional powers with consistency to enforce human rights guarantees. The institution, in general, has been too conservative in its pronouncements on human rights, in particular social and economic rights. Judicial decisions have, therefore, not contributed towards any change in the social environment or inspired any confidence in the objective enforcement of State accountability through the judicial system.

83. Many of the defenders felt that the judicial decisions frequently reflect a bias against defenders, and that the judiciary views the activities of defenders as endangering public order and, thus, needing to be restrained. Some defenders cited instances when judges have publicly stigmatized defenders and their activities, particularly in the context of collective action for social rights. One such example is a public comment by a judge to the effect that letting the landless loose is like sowing the seeds of evil in society.

84. The negative perception of the role of the judiciary in the context of human rights defenders has largely emerged from judicial orders that, according to these defenders, impede social action. They believe, for instance, that orders for the eviction of the landless and the homeless and those authorizing the use of force against peaceful assemblies are issued with undue promptness. In this respect, the defenders expressed the grievance that courts tend to endorse the use of force in eviction operations as a first resort and that no space is permitted for negotiating peaceful solutions to social claims and conflicts.

85. Defenders recounted their experiences in attempting to use the judicial system to promote or protect human rights. They felt that in their overall experience they had found that they could not depend on the judicial process to attain justice or to break the cycle of impunity for human rights violations. Many defenders engaged in this activity said that they had been able to use the regional human rights system more successfully than the judicial system at the federal or the state level.

86. The reports that the Special Representative received in this context indicate that there are very few proactive initiatives by the judiciary to enforce the rights guaranteed by the Constitution. In the case of the rights to land and housing in particular, there seems to be a gap in the understanding of these provisions between those struggling to secure these rights and the judiciary responsible for applying them in cases that come before the courts. This has created contradictions between the social perception of rights and the legal application of constitutional provisions.

87. The Special Representative raised this issue in her meeting with judges of the Supreme Court. Their response showed that the higher judiciary fully appreciates the potential of the constitutional provisions on human rights and fundamental freedoms to ease social conflict and enforce accountability of State structures for violations of these rights. Nevertheless, the Special Representative found that this understanding and appreciation was not universal amongst the judges that she met in the states that she visited.

88. She was, however, encouraged by the fact that there is a realization of the existence of this contradiction by some within the federal and state governments. In his meeting with the Special Representative, the Minister of Justice acknowledged that the justice system remains weighted in favour of the social status quo. This has resulted in biases within the lower tiers of the judiciary that affect the realization of rights in the proper spirit of the Constitution. He informed the Special Representative that the Federal Government was committed to addressing these issues and that initiatives to reform the judiciary had started at the federal level. He noted that some states had already taken initiatives to address these issues and have set up mechanisms to monitor the work of local judges.

89. The Special Representative acknowledges that, in some cases, the judiciary has taken initiatives, particularly for ending impunity for human rights violations. She notes with appreciation efforts of the judiciary in the State of Pará to develop a system to periodically review the status of the 578 cases of killings of rural workers recorded and reported by civil society organizations. A working group has also been set up to monitor progress in the prosecution of these cases. She also welcomes the circular issued by the presiding judge to all state local courts asking them to monitor and report on such cases regularly. She believes that this is a positive first step towards addressing the issue of impunity for abuses against defenders.

G. Disparity in commitment between the federal and state levels

90. The Special Representative believes that a more uniform commitment and complementary efforts by the federal and state Governments could mitigate many of the concerns regarding the situation of human rights defenders in Brazil. The civil society is generally of the opinion that state authorities have demonstrated less sensitivity to the protection of human rights defenders and given far less consideration to resolving the issues concerning their security. Because of the strong federal system, the uneven level of commitment has diluted the local-level impact and the effectiveness of policies and programmes initiated by the Federal Government.

91. The Special Representative observed that in some of the states she visited the authorities were far less enthusiastic about improving the situation of human rights defenders compared to the

responses she received from the Federal Government. In their discussions with her, authorities from the State Secretariat for Security in one state consistently denied that there were any incidents affecting the work or safety of human rights defenders, even though well-documented cases had been brought to their attention. In another state, the chief of security denied the existence of any violations against defenders and declared that he was not aware of “a single case of police misconduct against defenders in the state”. The Chief of Military Police in Pernambuco, when confronted with reports of incidents involving police action against defenders dismissed any concerns in this regard with the comment that during the year “more policemen were killed by criminals than criminals by the police”. This comment seemed to support the allegation of some defenders that in a number of states the security forces perceive human rights defenders and social activists as troublemakers or criminals.

92. With the exception of legislators who have made efforts to promote the protection of human rights defenders, the state legislative assemblies are not only uninterested, but sometimes also hostile towards human rights initiatives. In Bahia, several members of the State Human Rights Committee of the House of Representatives reported that the Committee has been paralyzed because of a lack of a quorum due to the opposition of some representatives to its human rights work.

VI. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

93. The Government of Brazil has a good understanding of the issues relevant to the protection of human rights defenders, and is making efforts to progressively overcome the hurdles in improving the environment for their effective functioning and for their protection. The comprehensive policies and initiatives on human rights adopted by the government in its efforts for better implementation of the strong legal framework provided by the Constitution for the protection of human rights is a significant part of this effort.

94. The work of human rights defenders is generally respected within the governmental structures and the authorities engage with the civil society and seek its participation and involvement in the design and implementation of human rights initiatives.

95. However, despite government initiatives and the efforts of an active and experienced civil society, serious concerns regarding the situation of human rights defenders persist because of a wide gap between the declared policy and its implementation and between the creation of mechanisms and their effectiveness.

96. In their efforts to attain social, economic and cultural rights, in seeking to expose human rights violations and to end impunity for these violations and in resisting discrimination or marginalization human rights defenders are experiencing serious harm. Their right to life, liberty and physical security continues to be threatened. They are subjected to unfair and malicious prosecution, harassment and vilification as retaliatory action by state as well as by powerful and influential non-state entities. Leaders and supporters of social movements, in particular, have suffered and are placed at serious risk for activities in defence of human rights. Even government

functionaries performing their tasks have not been safe and the Special Representative received reports of labour inspectors, as well as civil servants who were targeted.

97. The damage that incidents of violence and threats have caused to the security of human rights defenders, many of whom have had to flee their homes and have been living away from their families for a long time, should not be underestimated. Such a situation has perpetuated a climate of distrust and lack of faith in existing mechanisms and initiatives for human rights.

98. While the Special Representative does not discount allegations made by some state governments of violence accompanying collective action in some instances, she has noted, with grave concern, that peaceful public action for defence of human rights has frequently been met with disproportionate use of force. She is particularly concerned at the use of “non-lethal weapons” like rubber bullets by security forces in their operations during such events. She has also expressed concern that the procedures that streamline authorization and monitoring of such use are questionable. She has also noted the serious allegations of violence against defenders and abuse of powers by the State Military Police.

99. Much of the violence against defenders is rooted in conflicts over land and environmental protection. The social movements that have emerged to resist the violation of economic, social and cultural rights are an asset for Brazilian democracy. The role of human rights defenders in strengthening these movements deserves better projection by the media and stronger political support by the State.

100. The Special Representative has concluded that more uniformity of commitment and complementary efforts to implement human rights policies by the Federal and State governments could remove many of the hurdles in the way of progress in creating an enabling environment for human rights defenders.

B. Recommendations

101. With a view to address the serious problem of criminalization of human rights activity, it is recommended that the Special Secretariat for Human Rights and the Federal Ministério Público make joint efforts to collect and analyse the cases brought against human rights defenders in order to propose legislation or policy guidelines to prevent prosecution of defenders for carrying out activities in defence of human rights.

102. The State must play a more proactive role in mediation of social conflict and in giving legitimacy to interventions by human rights defenders to promote and protect economic, social and cultural rights. In particular defenders must not be left isolated in their struggle for or support of social justice against powerful or influential social entities and economic interests. In this regard the Government must consider creating mechanisms to oversee the performance of agencies such as INCRA, IBAMA and FUNAI. This would be a step towards addressing the serious issue of delays in the implementation of policies or completion of processes that relate to allocation or restoration of land.

103. **The Federal Government must negotiate with state governments to broaden the programme established for the protection of human rights defenders. Guidelines for selection and training of the police for this programme should be drawn and followed uniformly in the country. There must be a wider awareness of the United Nations Declaration on Human Rights Defenders amongst all Federal and state agencies involved in this programme. However, physical protection can only be a temporary measure and faster progress must be achieved in alleviating social, political and economic conditions that place defenders at greater risk.**

104. **The Government may consider convening a convention of the leaders of social movements, representatives of human rights organizations, and other interested and relevant actors to develop a National Plan of Action for the protection of human rights defenders and for facilitation of their activities.**

105. **The review of existing mechanisms for the monitoring and accountability of state security apparatus, particularly the state military police, is strongly recommended. There is a general lack of confidence in the competence, vigilance and independence of the existing mechanisms.**

106. **There is a need for a special mechanism to receive complaints and investigate violations of the rights of defenders, including inquiry into conduct of law enforcement agencies in policing public gatherings. The Special Secretariat for Human Rights could explore the appropriate structure for such a mechanism.**

107. **The National Coordinating Council for Human Rights Defenders may consider making periodical public announcement of its proposals, their adoption by the concerned agencies in the Federal and state governments, the progress in and results achieved by the initiatives already underway. This would enhance the transparency of such a coordinating body and also allow the civil society and the public in general to remain informed regarding the situation of human rights defenders.**

108. **Finally, the Special Representative urges the Government to ensure adequate resources for the initiatives it has already taken for the protection of defenders.**
