

Rural Violence in Brazil

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An Americas Watch Report

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List of Acronyms

AJUP Instituto Apoio Jurídico Popular (The Institute for Popular Legal Support)

EAP Economically Active Population

CONTAG Confederação Nacional dos Trabalhadores na Agricultura (National Agricultural Workers Federation)

CPT Comissão Pastoral da Terra (Pastoral Land Commission)

CUT Central Única dos Trabalhadores (Sole Workers' Central)

FETAG Federação dos Trabalhadores em Agricultura no Estado de Paraíba (Federation of Farm Workers in Paraíba State)

IBGE Instituto Brasileiro de Geografia e Estatística (Brazilian Institute of Geography and Statistics)

INCRA Instituto Nacional de Colonização e Reforma Agrária (National Institute of Colonization and Agrarian Reform)

INPA Instituto Nacional de Pesquisa na Amazônia (National Institute of Amazonian Research)

MIRAD Ministério da Reforma e do Desenvolvimento Agrário (Ministry of Agrarian Reform and Development)

PCdoB Partido Comunista do Brasil (Communist Party of Brazil)

PMDB Partido do Movimento Democrático Brasileiro (Brazilian Democratic Movement Party)

PT Partido dos Trabalhadores (Workers' Party)

MST Movimento dos Trabalhadores Rurais Sem Terra (Movement of Landless Rural Workers)

SMDDH Sociedade Maranhense de Defesa dos Direitos Humanos (Maranhense Society for the Defense of Human Rights)

STR Sindicato dos Trabalhadores Rurais (Rural Workers' Union)

SUDAM Superintendência de Desenvolvimento da Amazônia (Superintendency for the Development of the Amazon)

TFP Tradição Família e Propriedade (Tradition, Property and Family)

UDR União Democrática Ruralista (Democratic Rural Union)

I. Introduction

Rural Violence in Brazil focuses on five states in four regions: Pará in the north, Maranhão and Paraíba in the northeast, Acre in the west, and Rio Grande do Sul in the south. It is concerned with the human rights problem of impunity, which is in this case government failure to enforce criminal laws, permitting and encouraging further criminal behavior in the context of the struggle for land.

The report concludes that impunity exists in these regions and throughout Brazil. Of the 1,566 murders of rural workers, Indians, lawyers, nuns and priests and other professionals linked to the land struggle tabulated by the Pastoral Land Commission (Comissão Pastoral da Terra, CPT) from 1964 through 1989, there have been a statistically insignificant number of trials. In fact, of a total of 17 trials, nine resulted in acquittals and only eight ended in convictions. The convictions occurred in the few cases where members of the professional classes (three priests, three attorneys), or of groups with special international connections (two Indians), were murdered.

At the end of 1990, two killers of union leader and environmentalist Chico Mendes were convicted by a jury and sentenced to 19 years each. This case demonstrates that the Brazilian criminal justice system is indeed capable of delivering rough justice, if there is a political commitment to do so. Unfortunately, the commitment to justice for rural workers without special international connections is totally lacking. Sadly, the justice system seems to respond only to foreign or other special pressures, and this is not justice at all.

For centuries land ownership in Brazil has been restricted to a small, wealthy class. The family farm was never the rule here with the exception of some pockets in southern Brazil where German and Italian immigrants were given small land grants in the nineteenth century. There is no area of the country, however, which is not vitally affected by what happens in the rural sector. The system of highly concentrated land ownership, inherited from colonial times, has a domino effect on other social problems. Just 1.88 percent of the farms occupy over 54 percent of the land, while 15 million rural workers labor on economically inviable farms less than 10 hectares¹ each.

Those who cannot find land or work in the countryside flee to the Amazon and to the overcrowded cities. These migrants contribute to the breakneck speed of urbanization, creating slums and an inevitable, staggering rate of violent crime. In turn, this generates a lawless police response: extrajudicial executions.²

The social problems generated by the lack of access to land spill over into environmental concerns as well. Poor farmers are pushed into the Amazon frontier, where both settlers and large growers imperil the environment. While the settlers cause much less damage to the environment than the large

¹ One hectare is equal to 2.47 acres.

² This practice is not new; in the 1950s plainclothes police in Rio de Janeiro similarly "cleared" the streets of criminals who were freed by an allegedly corrupt court system.

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growers who have the means to hire teams of men to clear the forests (sometimes under forced labor conditions), the settlers would not be on the frontier if there was effective land reform in their places of origin.³

While each government since the military coup of 1964 paid lip service to agrarian reform—for the purpose of improving production as well as living conditions for the rural poor—and passed elaborate laws mandating changes, expropriation programs have been stalled by the power of the rural elite.

Landless Brazilians have taken to squatting or homesteading unused land as a means of pressuring the government into fulfilling its agrarian reform promises. By claiming this land for a year and a day of unchallenged occupation, certain rights, called *posse* (possession),⁴ are vested in the settlers. This practice has met violent opposition—judicial and extrajudicial—in Brazil. One source of the violence is the police, but it is more frequently caused by privately hired gunmen. The police, sometimes with and sometimes without a court order of eviction, have used excessive force on numerous occasions, shooting into crowds of farmers' families, beating them and burning their homes to force them off the land. Even the court orders are issued at hearings of which the squatters receive no prior notice, a practice perfectly legal in Brazil but fraught with the possibility of injustice and violence. Then, too, landowners often short-circuit the judicial route and send in their hired guns to rout out the settlers, usually with violent results.

The principal source of killing in the countryside is not the police but private gunmen who target prominent rural activists and their supporters. The perpetrators of these political assassinations operate anonymously, in hit and run fashion, and are rarely identified or caught. In large part this is the fault of the police, who in almost all cases have a casual attitude toward these crimes and fail to exercise due diligence in the collection of physical and testimonial evidence while the trail is still fresh. In many cases their investigation techniques can only be characterized as grossly negligent. This of course leads the victims' families and unions to believe that the police are in league with those who hired the gunmen.

The federal officials interviewed gave as an excuse for their inaction an exaggerated version of states' rights, claiming that they lack the authority and funds to act in these crimes. But they even fail to act in documented and denounced cases of federal jurisdiction, such as when forced labor is used to cut down the forest in remote plantations. Justice in the rural areas is obviously not a priority for them. The state officials we interviewed claimed they lacked the funds and manpower to protect or investigate, and at times hinted that the rural activists were getting what they deserved. This is not the case, however, when a landlord is injured or killed. Adequate resources—manpower, funding, expertise—are readily at hand when a case concerning a landlord's grievance arises.

We found some officials who were making admirable efforts to administer justice in an even-handed way; usually it seems, they are heartened and encouraged by considerable public attention to the crimes, as in the case of Chico Mendes, the rubber tapper and union leader whose murder in 1988 was the focus of international outrage. Few of these crimes command sufficient public attention, however, to assure serious investigations and trial. There are also private human rights organizations and elected

³ CPT, *Conflitos no Campo Brasil/89* (Goiânia, Goiás: CPT, 1990), p. 30, citing Philip M. Fearnside of the National Institute of Amazonian Research (Instituto Nacional de Pesquisa na Amazônia, INPA).

⁴ Civil Code of Brazil, article 502.

public officials who are working to prevent violence and to expose it when it occurs, and who press for prosecutions. But the statistics reveal how futile these efforts generally are.

The settlers' belief that the legal system will not protect them has led to a lack of faith in the system and in some cases even to armed self-defense measures to protect their homes and families. Under the civil code, necessary force is permitted to defend an immediate physical attack on property, even if the property right is *posse*, not title. In turn, this self-defense is used by some authorities as an excuse for inaction. The abdication of the state's role in criminal law enforcement thus gives way to the rule of the most powerful, who are not the settlers.

The landless have organized and sought to push the government into carrying out agrarian reform. Americas Watch studied the rural violence that is a byproduct of this struggle for land,⁵ looking in particular at the role of the state in that violence. We found that the state and federal governments have abdicated their roles of preventing and punishing criminal violence and granted *de facto* impunity to the hired guns of powerful landowners who seek to prevent the expropriation of their land by attacking rural organizers and those associated with the movement. The police have been guilty of the use of excessive force in evicting homesteaders, and some victims have died. At times, settlers have injured or killed police to prevent them from carrying out evictions.

In its investigation of human rights abuses, Americas Watch consulted several groups of people. Most important were the witnesses and victims of rural violence. Also important was the group of activists in human rights and other private organizations, principally the CPT (sponsored by the National Council of Brazilian Bishops), a human rights and rural advocacy group that accompanies and monitors the struggle for land and rural labor conflicts. The Council, now as during the years of the military dictatorship from 1964 to 1985, continues to speak out against human rights abuses and in favor of the most disadvantaged members of society. The other groups we interviewed were state and federal police, judicial and other officials, including members of the Cabinet of President Fernando Collor de Mello, and representatives of the media.

Americas Watch urges local and national officials in Brazil to make every effort to assume their proper law enforcement role and apply the law with vigor and fairness to all.

⁵ Prior Americas Watch reports and newsletters on Brazil are: *Police Abuse in Brazil: Summary Executions and Torture in São Paulo and Rio de Janeiro*, December 1987 (New York: Americas Watch, 1987); *Prison Conditions in Brazil*, April 1989 (New York: Americas Watch, 1989); *News from Americas Watch*, "Notorious Jail Operating Again in São Paulo," October 1989; *News from Americas Watch*, "On Trial in Brazil: Rural Violence and the Murder of Chico Mendes," December 1990; *News from Americas Watch*, "Forced Labor in Brazil," December 1990.

II. Background

A. Size and Population

Brazil is the sixth largest country in population in the world and the fifth largest in territory. The majority of its 150 million people live along the lengthy Atlantic Coast, with the northeast comprising 31 percent of the total population (30 persons per square kilometer) and the southeast 43 percent (70.4 persons per square kilometer), where the cities of Rio de Janeiro (six million) and São Paulo (11 million) are found. The Amazon region in the north holds only 6.6 percent of the population (2.5 persons per square kilometer), although it occupies 45.4 percent of the total land area of Brazil. Brazil's overall population density is relatively low: 17.6 persons per square kilometer.

Because land reform has not been seriously undertaken, the excess rural population floods into the crowded urban areas looking for work, or into the Amazon, to farm and to prospect for gold. Indeed, the government has sought to promote the Amazon as an escape valve from the densely populated areas in lieu of land reform of the large estates, called *fazendas*. This colonization scheme has been largely unsuccessful, as described below:

The most significant wave of pioneer colonization in South America since the Second World War has been the Brazilian "assault on the Amazon" in the 1970s. The government policies involved were largely worked out in the 1960s, reflecting pressures for geopolitical expansion, national security, territorial integration and the exploitation of new natural resources. . . The main investment was the Transamazon Highway, a 5,400 km road link from . . . the North-East through to the Peruvian frontier. . .

The broad strategy behind the construction of the Transamazon Highway was to provide a route for the migration of poor northeastern farmers and landless labourers to colonize parts of the Amazon basin, so relieving population pressure in the north-east. . . The directed colonization settlements (in Pará and Rondônia) have not proved very successful, and many of the original government-selected colonists have abandoned their farms and moved into the Amazonian towns, [or] back to the North-East. . . In contrast, there has been considerable demand by multinational companies and Brazilian investors to buy up large tracts of land for speculative purposes or to establish agri-businesses....⁶

José Lutzenberger, an agronomist and now Secretary of the Environment in the current government, spoke before the U.S. Congress in 1984 describing how the government had encouraged thousands of poor peasants from southern Brazil—dispossessed of their land by plantations devoted to cash crops—to settle the Amazon state of Rondônia. The resulting flood of rural poor to the Polonoroeste project, one-third of which was financed by the World Bank, became an environmental and human rights nightmare as the peasants unsuccessfully tried to scratch a livelihood from the infertile land, stripped of tree cover. The soil was quickly exhausted and the Indians were pushed off their land as the colonizers

⁶ Rosemary D.R. Bromley & Ray Bromley, *South American Development: A Geographical Introduction* (New York: Cambridge University Press, 1982), pp. 112-113.

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moved from plot to plot.⁷

Something has to give. The population in Brazil increased from 1980 to 1985 at an annual rate of almost 3 percent. The total population grew from 70.9 million people in 1960 to 119 million in 1980, a truly astounding increase of almost 70 percent in 20 years. Projections indicate that Brazil will reach 245 million in only 35 years.⁸

The population explosion was accompanied by rapid urbanization; like so much of the underdeveloped world, "Brazil is undergoing urbanization without adequate industrialization."⁹ The urban population alone shifted from 29.7 percent of the total population in 1960 to 50.6 percent in 1980.¹⁰ The high rural birth rate of 6.4 percent (compared to a 3.6 percent urban rate)¹¹ contributed to generating a migration to the cities of about one million people annually. In 1985, the Brazilian government estimated that this exodus was likely to produce 11 million urban unemployed by 1990.¹²

Paradoxically, people abandoned farming for nonexistent urban jobs or migrated to the frontier because there were no economic opportunities in the vast rural areas of their birth—all because land ownership is so highly concentrated.

⁷ Susan George, *A Fate Worse than Debt* (New York: Grove Weidenfeld, 1990), pp. 164-165. As a result of environmental groups pressuring the U.S. Congress and international lending institutions such as the World Bank, certain environmental restrictions on the use of loans have been promulgated. See Andrew Revkin, *The Burning Season: The Murder of Chico Mendes and the Fight for the Amazon Rain Forest* (Boston: Houghton Mifflin Co., 1990), pp. 223, 226-228.

⁸ Secretaria de Planejamento e Coordenação da Presidência da República and Fundação Instituto Brasileiro de Geografia e Estatística (IBGE), *Anuário Estatístico do Brasil*, 1989 (Rio de Janeiro: IBGE, 1989), pp. 72-73.

⁹ Harold Blakemore & Clifford T. Smith, eds., *Latin America, Geographical Perspectives*, 2d ed. (London: Methuen, 1983), p. 378.

¹⁰ Carlos A. Hasenbalg & Nelson do Valle Silva, "Industrialization, Employment, and Stratification in Brazil," in *State and Society in Brazil, Continuity and Change*, eds. John D. Wirth, Edson de Oliveira Nunes, and Thomas E. Bogenschield (Boulder, CO: Westview Press, 1987), pp. 61-63.

¹¹ IBGE, *Anuário Estatístico do Brasil*, p. 116.

¹² Preamble, Decree No. 91.766, October 10, 1985 ("1985 Agrarian Reform Law"). It has been estimated that 12.8 million rural residents migrated to the urban areas from 1960 to 1970, and 15.6 million in the next ten years.

B. Land Distribution in Brazil

1. Land tenure and the rural economy

The country's land area devoted to crops expanded from 6.6 million hectares in 1920 to over 52 million hectares in 1985, but "the concentration of rural holdings is very large in Brazil and there was little change over the period 1950-85."¹³

Large estates of over 500 hectares occupy half the land although they are less than two percent of the farms. On the other end of the spectrum are over three million *minifúndios*, which comprise the majority of the more than five million farms. They average 3.25 hectares each, comprising only 2.66 percent of the farmland.¹⁴

At the top of the pyramid are 61 enormous farms representing only 0.001 percent of the total number, yet comprising more land than three million small farms. The 61 estates, all over 100,000 hectares and averaging 204,881 hectares each, hold three percent of the farmland for a combined total of 12,497,783 hectares.

Much of the land registered as agricultural is not actually cultivated but lies fallow. The preamble to the 1985 agrarian reform law states that Brazil has 500 million hectares of land surveyed for agricultural purposes of which only 80 million hectares are actually being cultivated (including land resting for crop rotation purposes), while according to the owners themselves 170 million hectares held in *latifúndios* are potentially usable but unexplored.¹⁵

This skewed land distribution has consequences for economic productivity. "The small holdings are usually too small to provide an adequate living and the large estates are only partially exploited," according to economists.¹⁶

2. The rural people

The rural population was 38.6 million people in 1960 and, after a temporary increase, returned to that level in 1980. The urban population grew so much in those years, however, that these 38.6 million rural people were 55.1 percent of the population in 1960 but only 32.4 percent in 1980.

The 1985 census found 5.8 million farms; of these, some one million were in the hands of

¹³ Werner Baer, *The Brazilian Economy*, 3rd ed. (New York: Praeger, 1989), pp. 3, 352.

¹⁴ *Latifúndios* and *minifúndios* are defined in legislation and regulations and vary in size by region and productivity. *Minifúndios* are those farms considered too small to be economically productive. Statistics from IBGE, *Anuário Estatístico do Brasil*, p. 293.

¹⁵ 1985 Agrarian Reform Law, p. I. A 1988 government agrarian reform agency, Ministério da Reforma do Desenvolvimento Agrário (MIRAD), census registered 437,823,401 hectares in 4,777,040 farms. Of that, 251,328,671 hectares have been exploited or farmed but 186,494,729 hectares have not. MIRAD, *Estatísticas Cadastrais Anuais (Dados preliminares)– 1988*. (There is a disparity between the MIRAD and IBGE statistics.)

¹⁶ Blakemore & Smith, eds., *Latin America, Geographical Perspectives*, p. 359.

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"occupiers,"¹⁷ another 3.6 million farms were farmed by their owners (from *minifundistas* to corporations), some 590,000 by renters, and 455,000 by sharecroppers.¹⁸

Although statistics abound in Brazil, consistency is lacking between agencies and groups. Estimates on the numbers of *posseiros*, for instance, range from 100,000 (Minister of Agriculture Cabrera) to one million (census).

Estimates of the number of rural landless vary according to the definition. The landless rural workers' movement, Movimento dos Trabalhadores Rurais Sem Terra (MST), estimates that there are 4,840,000 landless rural families, which they define as those who live on state or private land without title to it (540,000 families), sharecroppers (300,000), renters (550,000), *minifundistas* who own less than five hectares of land (750,000), and semiproletarian workers who do temporary work to complement their income from the land (2,700,000).¹⁹

Minister of Agriculture Antônio Cabrera, in contrast, told Americas Watch that there were only an estimated two million rural laborer families who do not have land or access to it. He said there were also 100,000 *posseiros* and 500,000 renters, leaving some 2.6 million with no title to the land.²⁰

A 1988 survey by the Brazilian agrarian reform agency found 17.18 million people employed on rural properties.²¹ Of these, 5.4 million are temporary workers (during peak times), 359,000 sharecroppers, and 180,000 renters. These categories add up to 5.939 million rural workers, not counting the 1.47 million who are permanent salaried rural workers.²²

Whatever the number of landless rural workers, two million or seven million, the trend toward proletarianization of small farmers is noticeable. In the 1970s, agriculture experienced a "decline of self-employed and unpaid workers to a 58 percent share and the increase of employees, between 1970 and 1980, from 25.4 percent to 38.4 percent respectively."²³

¹⁷ The census institute defines occupiers as those farming certain public lands or lands belonging to others, with or without the owner's permission, and without paying.

¹⁸ There were about 37,000 farms in other conditions or without declaration. IBGE, *Anuário Estatístico do Brasil*, pp. 289, 292.

¹⁹ MST, *Dados da Realidade Agrária do Brasil*, 1988.

²⁰ Interview, June 27, 1990. He said there were five million rural producers with title to land; all groups total 7.6 million rural producers, according to the minister, but this seems to be an undercounting since the IBGE census found 12.6 million economically active persons in agriculture.

²¹ Using a different definition of rural employment, the 1980 IBGE census indicated only 12.6 million economically active persons in agriculture.

²² MIRAD, *Estatísticas Cadastrais Anuais (Dados preliminares)-1988*, p. 59. The other categories are 5 million owners' family members, 3.8 million "managers" and 858,000 nonsalaried (assisting a family member, apprentices or institutional volunteers).

²³ Hasenbalg & Valle Silva, *State and Society in Brazil, Continuity and Change*, p. 68.

As in the rest of Brazil, inequality of income distribution is increasing in the agricultural sector. "Between 1970 and 1980 the share of the poorest 50 percent of the economically active population (EAP) in agriculture declined from 22.2 percent to 17.6 percent of the income [from agriculture] at the same time that the share of the richest 10 percent grew from 36.3 percent to 47.9 percent."²⁴

The average rural worker's salary is below the legal minimum wage in Brazil, with the exception of workers in São Paulo state. This has drastic effects on the rural standard of living.

Social surveys have shown that in 1980 only 18 percent of Brazil's rural households had running water, compared with 72 percent of urban households; 21.4 percent had electricity versus 88 percent in urban areas; 7.4 percent were connected to a sewage system or had a septic tank, versus 50 percent in urban areas; only 14 percent had a refrigerator, versus 66 percent in urban areas.²⁵

3. The economy

Since 1960, Brazil's rapid economic transformation has made Brazilian and international bankers' heads spin. The manufacturing sector grew rapidly, jumping from 2.9 million jobs in 1960 to 10.6 million in 1980 (24.4 percent of the EAP).²⁶

Brazil is now the leader in Latin American industrial output.²⁷ Exports include arms—Brazil's earnings from its weapons exports were estimated at \$3.5 billion in 1984.²⁸

By 1980, the agricultural sector provided 12.6 million jobs, about the same number as in 1960, but only 29.2 percent of the EAP.²⁹ Agricultural exports continued to generate more foreign earnings than manufactured goods in 1980. By 1986, however, manufacturing constituted 63 percent of Brazil's exports.³⁰

As Brazil rapidly developed into an industrial power, a large segment of the population was left behind in deepening poverty. For instance, the service sector, a catch-all for rural migrants displaced from the countryside, grew from 7.5 million jobs in 1960 to 20 million in 1980. The service sector includes a substantial number of the self-employed, domestics and street vendors, and disguises

²⁴ Ibid., p. 80.

²⁵ Baer, *The Brazilian Economy*, p. 355.

²⁶ Hasenbalg & Valle Silva, *State and Society in Brazil, Continuity and Change*, pp. 61-63.

²⁷ Blakemore & Smith, eds., *Latin America, Geographical Perspectives*, p. 371.

²⁸ George, *A Fate Worse than Debt*, p. 23. For instance, Iraq had purchased arms from Brazil during the Iran-Iraq war. See James Brooke, "Gulf Crisis Has Brazil in a Tailspin," *The New York Times*, August 27, 1990, p. D-10.

²⁹ The agricultural sector declined from an EAP of 53 percent in 1960 to 29.2 percent in 1980. IBGE, *Anuário Estatístico do Brasil, 1989*, p. 122. The total EAP was 43,235,712.

³⁰ Baer, *The Brazilian Economy*, p. 204.

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underemployment.³¹ Wealth trickled up rather than down. In 1960, the poorest 50 percent of the population had 17.71 percent of the income; their share declined by 1980 to 14.17 percent. The rich got even richer: the wealthiest one percent enjoyed 12.11 percent of the income in 1960, and by 1980 were enjoying 18.21 percent. The richest 10 percent had 39.66 percent of the country's income in 1960 and kept 47.81 percent in 1980.³²

Wages were kept down by the military government which banned free collective bargaining, assisted employers in implementing harshly repressive personnel policies, clamped down on aggressive union activity, and abetted the lack of internal union democracy.³³ The minimum wage lost 30.6 percent of its real value between 1968 and 1980.³⁴ And in rural areas, as many as 14 percent receive less than or only one half of the minimum wage.³⁵ In 1985 about 86 million people, two-thirds of the population, were malnourished.³⁶

By 1982, Brazil's economy was in recession along with the rest of the world. In January 1983 the International Monetary Fund's structural-adjustment package was applied to Brazil in an effort to reduce domestic consumption to restore a positive balance of payments.³⁷ A 1990 World Bank report concluded that:

Brazil's recovery was incomplete and faltering. . . . The recession of 1983 was probably unavoidable. Poverty increased because of falling wages and incomes in urban and rural areas; informal employment grew as formal employment stagnated. . . . Failure to reduce the deficit undermined the effort to tackle inflation. . . . In 1986 the Cruzado Plan sparked an economic boom that reduced poverty substantially. But the rise in consumption and wages was not sustainable, owing to rising imports and resurging inflationary pressures. When the inevitable contraction came, poverty rose again. In 1987 the incidence of poverty was higher than at the beginning of the decade. The country faced continuing fiscal difficulties and a larger debt burden.³⁸

The national debt in 1988 was \$114 billion, equivalent to 4.5 percent of the gross national product

³¹ Hasenbalg & Valle Silva, *State and Society in Brazil, Continuity and Change*, pp. 61-63.

³² *Ibid.*, p. 79.

³³ Maria Hermínia Tavares de Almeida, "Novo Sindicalismo and Politics in Brazil," in *Democratizing Brazil*, ed. Alfred Stepan (New York: Oxford University Press, 1989), p. 149.

³⁴ Hasenbalg and Valle Silva, *State and Society in Brazil, Continuity and Change*, p. 78.

³⁵ IBGE, *Anuário Estatístico do Brasil*, p. 126.

³⁶ Quoting the Ministry of Planning. George, *A Fate Worse than Debt*, pp. 137-138.

³⁷ George, *A Fate Worse than Debt*, pp. 145-146.

³⁸ *World Development Report 1990: Poverty* (Published for the World Bank, New York: Oxford University Press, 1990), p. 110.

and 42 percent of the value of goods and services exported.³⁹

In the rural economy, three sectors predominate: an export sector, a traditional *fazenda* sector and a subsistence sector. Brazil has permitted foreign investment in agriculture, a major exception in a continent where other foreign agribusinesses have been expropriated.⁴⁰

The agricultural export sector occupies second place in the world (the U.S. is first), and in the late 1970s made up 65 to 70 percent of Brazilian exports, in value, thanks to government support and subsidies.⁴¹ Land planted in soybeans increased over nine times in the 1970s⁴² through mechanization with government assistance, as Brazil became the world's second largest exporter of soybeans.⁴³ Other principal export crops are orange juice, chicken and coffee. In the late 1970s Brazil was the world's leading grower of coffee, which contributed 20 percent of the value of Brazilian exports.⁴⁴

The World Bank summarizes the costs of the Brazilian government's promotion of export agriculture as follows:

Brazil has promoted agriculture and has achieved rapid growth in the sector. But its record on poverty is disappointing. One reason is that biases within the agricultural sector, notably in taxation and subsidized credit, favor large farmers and work to the disadvantage of labor. These biases interact with the highly inequitable initial land distribution to reduce the gains to the poor from growth....

Brazil's income tax greatly favors agriculture in relation to other sectors, but only the rich can reap the benefits. Through special provision in the income tax code, corporations can exclude up to 80 percent of agricultural profits from their taxable income, and individuals can exclude 90 percent. Fixed investments can be fully depreciated in the first year and can even be depreciated two to six times over. This, together with high inflation, encourages corporations and the rich to overinvest in land. The result has been the accumulation of large landholdings and increases in land prices that exceed growth in land productivity. The poor do not benefit from the tax breaks (they pay no income tax), and they cannot afford to buy land. Many move to frontier areas in search of unclaimed land.

... One such exception [to income tax laws], intended to encourage land use, reduces the tax by up to 90 percent if owners use land to graze cattle. This promotes the conversion of

³⁹ Ibid., pp. 219, 223.

⁴⁰ Bromley & Bromley, *South American Development*, p. 56.

⁴¹ Blakemore & Smith, eds., *Latin America, Geographical Perspectives*, pp. 358-359.

⁴² George, *A Fate Worse than Debt*, p. 146.

⁴³ Baer, *The Brazilian Economy*, p. 3.

⁴⁴ Blakemore & Smith, eds., *Latin America, Geographical Perspectives*, p. 363.

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forest land to uneconomic livestock ranching, reduces the demand for labor, and has harmful environmental consequences. . . .

Agricultural credit has been exceptionally distorted in Brazil. Until recently, real interest rates on official credit were negative, and real interest rates on loans for agriculture were lower than in the nonagricultural sector. The difference in credit terms between sectors has been capitalized in the price of land. Although subsidies raise profits in agriculture, they have mainly benefitted large farmers and have encouraged excessive mechanization, again reducing the demand for unskilled labor. Poor people who lack land titles have not benefitted from credit subsidies.

Agricultural policies in Brazil have reduced labor demand and have made it almost impossible for a poor person to buy land and become a farmer. Opportunities for unskilled workers to acquire skills by becoming long-term workers have been substantially reduced by subsidized mechanization.⁴⁵

The favoritism shown to export production has been at the expense of production of food for Brazilians. The expansion of soya cultivation, for instance, has "contributed to a fall in the production of maize and black beans and the consequent rise in prices of these staple foods."⁴⁶ Brazil somewhat improved per capita food production from 1961 to 1979, but not enough for its growing population; its wheat imports doubled between 1965 and 1979 and the country changed from exporting to importing corn.⁴⁷ Indeed, Brazil was one of the best customers for U.S. farm products until the debt crisis commencing in the early 1980s severely cut into its ability to pay for the food, and thus feed its population.⁴⁸ The dependence on foreign food imports, which has not ceased, is especially grave considering the rise of food prices worldwide and the unreliability of U.S. food surpluses.⁴⁹

By no means has all the land in large estates been catapulted into lucrative export production. This phenomenon has occurred primarily in São Paulo and the southern states,⁵⁰ where mechanization and minimum prices for some export crops have converted this region into one of the most modern agricultural regions in the hemisphere.⁵¹

Apart from the export enclaves, Brazilian agriculture has traditionally been characterized by its

⁴⁵ World Bank, *World Development Report 1990: Poverty*, p. 59.

⁴⁶ Bromley & Bromley, *South American Development*, p. 55.

⁴⁷ *Ibid.*, p. 42.

⁴⁸ Between 1981 and 1985, Brazil's imports of U.S. food products were down 26 percent. In 1985, however, Latin American food imports from the U.S. were still \$4.2 billion compared to the Soviet Union's \$2.5 billion. George, *A Fate Worse than Debt*, p. 65.

⁴⁹ Bromley and Bromley, *South American Development*, p. 44.

⁵⁰ Blakemore and Smith, eds., *Latin America, Geographical Perspectives*, pp. 358-359.

⁵¹ Roger Burbach & Patricia Flynn, eds., *Agribusiness in the Americas* (New York: Monthly Review Press, 1980), p. 98.

"low degree of mechanization and the presence of archaic forms of labor relations."⁵² The traditional *fazenda* "is often owned mainly for status and security against inflation, and it is usually inefficiently farmed."⁵³

In 1966 the military dictatorship designated for development a vast area called Amazônia Legal:⁵⁴ 5 million hectares comprising 59.1 percent of the national territory, with only nine percent of the population, which spoke Portuguese and 200 different Indian languages, and extensive forests.⁵⁵

The military government's initial strategy was to colonize the Amazon with farmers from the northeast along the Transamazon Highway. With the failure of that program, they turned to a "growth pole" strategy, giving direct incentives to large enterprises in various regions of the Amazon. They also wanted to attract large economic groups into the area to occupy the region for large-scale, capital intensive, mechanized, export farming.

Amazônia Legal was to be developed by the Superintendency for the Development of the Amazon (SUDAM), whose strategy was based on a tax rebate scheme now criticized by the World Bank (see above). Many southern businessmen, who knew nothing about farming or ranching, enthusiastically took advantage of the plan, since SUDAM turned down very few projects and its supervision was very lax.⁵⁶ Large areas were not farmed but held for speculation and as collateral for bank loans.⁵⁷

Coexisting with the export sector and the large, under-used *fazendas* are the *minifúndios*. In Brazil, as in Latin America generally, staple food production for local markets remains a backward sector, left for these small producers and subsistence farmers with the least fertile lands who have virtually no access to the credit and government programs that have transformed the agricultural export sector.⁵⁸ Agricultural techniques remain backward and yields low in the unmechanized sector,⁵⁹ but proportionally, the *minifúndios*' output is said to be greater than that of the *fazendas*.

The rural workers' movement urges that enough land be distributed to each family farmer so that

⁵² Hasenbalg & Valle Silva, *State and Society in Brazil, Continuity and Change*, p. 68.

⁵³ Bromley & Bromley, *South American Development*, p. 49.

⁵⁴ This includes the states of Maranhão west of the 44th longitude, Mato Grosso and Goiás north of 16th and 13th latitudes respectively (the new state of Tocantins) and the states of Pará, Acre, Amazonas, Rondônia, Roraima and Amapá. Sue Bradford and Oriel Glock, *The Last Frontier: Fighting Over Land in the Amazon* (London: Zed Books, 1985), p. 43.

⁵⁵ Ibid.; Comissão Pastoral da Terra (CPT), *Conflitos no Campo Brasil/88* (Goiânia, Goiás: CPT, 1989), p. 47.

⁵⁶ Bradford & Glock, *The Last Frontier*, pp. 43-45.

⁵⁷ José Garcia Gasquez & Chando Yokomizo, "Resultados de Veinte Anos de Incentivos Fiscais na Agropecuária da Amazônia," XIV Encontro Nacional de Economia (ANPEC II, 1986), pp. 47-84.

⁵⁸ Burbach & Flynn, eds., *Agribusiness in the Americas*, p. 104.

⁵⁹ Blakemore & Smith, eds., *Latin America, Geographical Perspectives*, pp. 358-359.

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the farms are economically viable and that credits and training be provided so that the farms can use environmentally sound, advanced agricultural techniques.

C. The Agrarian Movement

The unorthodox ways in which landless rural workers in Brazil acquire land today would have seemed thoroughly familiar to U.S. pioneers. As one U.S. economic historian described the North American settlers, "The individual brave enough to risk his own life and the lives of his family in a pioneering venture was not usually deterred from action by legal niceties."⁶⁰ Squatting, or unauthorized settlement on public land not yet surveyed or announced for sale, represented an attempt by the U.S. pioneers to find better soils and generate earnings from land before they were billed for it.

Squatting was illegal, of course, but it was an offense hard to combat. Moreover, there were those who argued that by occupation and improvement of the land the squatter gained rights against all comers—"cabin rights". . . . At first federal troops tried to drive squatters from unsurveyed land, but successes were only temporary. Gradually the government came to view this pioneer law-breaking less and less seriously. . . . [T]he squatters . . . formed protective associations as soon as they settled in a particular locality. When the public auction of land in that locality was held, the members of the protective association let it be known that there had better be no competitive bidding for land preempted by them. . . . Even in places where there was no organized action, the individual who found his farm bought out from under him could often charge handsomely for the "improvements" he had made, and frontier courts were inclined to uphold his "rights."⁶¹

U.S. agriculture has for over three centuries been primarily a system of independent commercial production by household farmers who own their land and rely on their own labor. In large part, this is due to the pressures brought by early farmers and squatters.

In Brazil, the goal of family farms has never been achieved, but there is today an active movement of rural workers struggling for the right to their own land. Those involved receive assistance from a variety of nonprofit organizations, including the CPT, whose headquarters are in Goiania with representatives in every state in Brazil.

Most of the violence connected to land disputes and registered by the CPT—some 346 of the 488 killings or 70 percent—occurred in the official frontier of Amazônia Legal from 1985 to 1989.⁶² In all, during 1988 the CPT registered 621 land conflicts involving 403,733 persons in 156 million hectares in Brazil⁶³ and during 1989 they tabulated 500 conflicts involving 192,533 persons in 14 million hectares.⁶⁴

⁶⁰ Ross M. Robertson, *History of the American Economy*, 2d ed. (New York: Harcourt, Brace & World, Inc., 1955), p. 105.

⁶¹ *Ibid.*, p. 106.

⁶² CPT, *Conflitos no Campo Brasil/89*, p. 28.

⁶³ CPT, *Conflitos no Campo Brasil/88*, p. 22.

⁶⁴ CPT, *Conflitos no Campo Brasil/89*, p. 39.

The CPT defines "land conflicts" as those acts involving a) *posseiros*,⁶⁵ having possession, use or ownership of the land; b) renters; c) sharecroppers (*parceiros* and *meaçeiros*); d) intrusion into indigenous lands; and e) rubber tappers (*seringueiros*) and other *extractivistas*.⁶⁶

The CPT's definition of "rural labor conflicts" includes forced labor, disrespect of agrarian labor laws and contracts, strikes, work accidents and hazardous work conditions, and other conflicts arising from the agrarian employer-employee relationship.

Americas Watch investigated land conflicts involving *posseiros*, renters, and *seringueiros*. We also investigated forced labor practices.

Included in the category of *posseiros* are those who seek possession, use or ownership of the land but do not have any technical legal claim to it, to whom we refer as landless or *sem terras*, in some areas the distinction between *posseiros* and *sem terras* is blurred, as explained below, and grows out of historical and regional differences.

The *posseiros* follow a very traditional Brazilian practice of squatting in remote areas of large, unused estates or state land primarily concentrated in the north (Amazon), northeast and central states. Sometimes their land occupations are organized but some are individual affairs, with a pioneer family or group simply staking out and clearing a place in the forest. Often these locations are so remote that the owners do not detect the squatters, who after a year and a day are correctly called *posseiros*, although this word is generically used for land occupiers by the occupiers themselves, without regard to how long they have been farming the land in dispute, be it a few months or a few generations. Those opposed to this movement refer to anyone in this category as a land "invader."

The *posseiros* occupy land for two purposes: first, they want it expropriated and occupation puts pressure on the state and federal agencies and governments to act; and second, they need to farm the land to live.

Although there are vast uncultivated areas, many occupations are detected by owners and the resulting efforts to disperse the squatters can be bloody. Many eviction attempts, whether conducted by the police pursuant to court order or by private gunmen without any order, or any combination of the above, succeed in driving the *posseiros* off the land, and in the process destroying or robbing personal belongings and at times beating or killing family members. In a few instances, however, the *posseiros* have used hunting muskets in self-defense to prevent eviction. In many cases where the eviction has been successful the landowners' victory is only temporary because after a few weeks the *posseiros* return to the site and start farming again.

At times, the *posseiros* are organized by the MST or *Sem Terra* movement. The *Sem Terra* organization was started and has its base in southern Brazil, among those dispossessed by mechanized

⁶⁵ *Posseiros* are those who have *posse* or possession and use of the land, a right distinct from title. *Posse* may be acquired by squatting unchallenged for a year and a day. Those who have *posse* have the right to be reimbursed for improvements to the land and may not—in theory—be evicted without due process.

⁶⁶ An *extractivista* is a person who gathers wild forest products such as Brazil nuts.

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agribusiness. The MST is supported by the Workers Party (Partido dos Trabalhadores, PT), headed by Luiz Inacio da Silva, "Lula," who won 38.5% of the vote in the presidential runoff election in 1989, and by the Sole Workers' Central (Central Unica dos Trabalhadores, CUT), a left wing union.

The *sem terras* select unused land to occupy, but, unless the land is in the northeast and Amazon, they cannot hope to escape detection by the owners for a week, much less the year and day required for them to qualify legally as *posseiros*. The south is more densely populated and has a good network of roads and the owners seek and receive judicial eviction orders quickly. Despite the certainty of detection and eviction, hundreds of families will join in an occupation hoping to win, through a sit-in, negotiations for the expropriation of the occupied area or an alternate site. The court eviction order is often the trigger for negotiations between the *Sem Terra* representatives and attorneys and state officials over their demand for land and a peaceful solution to the problem that does not require forced eviction by military police. Southern politicians often praise land reform and the concept of small family farms, especially since this region has had a favorable historical experience with such farming; many of the landless rural workers in this region are descendants of the nineteenth century Italian and German immigrants and colonizers.

Unfortunately, private gunmen in the hire of the landowners and military police have brutally evicted hundreds of families in land occupations in the south. Enforcement of the criminal laws against abusive police and gunmen seems to be as elusive in the south as the north.

The *seringueiros* seek to preserve their traditional access to the land. They and the Indians, whose claim to land is long-term, have recently formed an alliance with environmentalists since all have an interest in preserving land, specifically forests, for small-scale non-damaging use, and preventing large cattle-growers from snapping it up and converting it to pasture through burning.

This joining of the two Brazilian movements, *seringueiros* and Indians, and with the international environmental movement occurred most spectacularly in the state of Acre, where the 1988 killing of *seringueiro* union leader and ecologist Chico Mendes shook the world sufficiently to bring a reprieve to the burning of forests in that state.

These struggles have been led at times by local delegates of the rural workers' union (Sindicato dos Trabalhadores Rurais, STR),⁶⁷ or in other places, by *Sem Terras* or local groups without national ties. The STR is part of the National Agricultural Workers Federation (Confederação Nacional dos Trabalhadores Agricultores, CONTAG), a membership union organization representing millions of rural workers, and, until late 1990, partly funded by the state. It strongly supports and works for implementation of land reform legislation already enacted.

The last category of conflict we investigated was in the context of paid agricultural labor. The most egregious abuses occur in the system of migrant labor where force is used to prevent the laborers from fleeing oppressive work conditions on remote *fazendas* on the frontier. The *pistoleiros* even track down and capture escaping workers, sometimes with the complicity of the police. Although the crime of "maintaining a person in conditions analogous to slavery" is under federal jurisdiction when state lines have been crossed, the federal police, like the state police, rarely investigate or prosecute. Enforcement of

⁶⁷ The STR, organized prior to the 1964 military coup, managed to remain in existence during the dictatorship. At times the local STR delegates do not support, and even work against, occupations, considering the tactic too militant. They are accused by militant unionists as working more for the government than for the rank and file.

these laws would raise the cost for the large landowners destroying the environment.

The opponents of those demanding land redistribution are predictably the large and medium-sized landowners. An early group, Tradition, Family and Property (Tradição, Propriedade e Família, TFP), created in the 1960s to resist the liberalizing changes in the Catholic Church, promoted the concepts of untrammelled free enterprise and sacrosanct rights of private property as an adjunct to rabid anti-communism. Then a national organization was formed, the Democratic Rural Union (União Democrática Ruralista, UDR), to counteract the government's 1985 land reform program. The UDR president in Goiás admitted in a press interview in 1987 that they had purchased 4,000 arms in two states and had over 70,000 arms in all.⁶⁸ Its strongholds are in the large cattle *fazendas* of the north and central west regions. The UDR ran a candidate in the 1989 presidential election, but won embarrassingly few votes, and in the runoff threw these and its significant economic clout behind the conservative coalition candidate, now President Fernando Collor de Mello.

D. Agrarian Reform

The view of most farmers and economists is that Brazil must have agrarian reform. What constitutes the necessary reform is the issue, rather than whether the present land tenure and cultivation system should be continued. In the not atypical view of experts,

If rural Brazil is to become part of modern Brazil there will have to be a far-reaching agricultural reform in the very broadest sense of the phrase. There must be a rationalization of the land-tenure pattern to consolidate small holdings into viable economic units, and to detach unused land from the large estates to make it available to people who will use it. Education of the rural worker, diffusion of better agricultural techniques, improved transportation and storage and packaging facilities for agricultural products must all be part of the reform.⁶⁹

Shortly after deposing the civilian government in 1964, the military government enacted the first land reform statute in Brazil, in response to considerable popular mobilization in the countryside. Although lands were expropriated and distributed to the poor during the military regime, land concentration and rural poverty worsened.

In 1985, the newly-installed civilian government of President Sarney enacted the 1985 Agrarian Reform Law, which states that land, although privately held, must fulfill a social function, described as a) providing for the welfare of the owners and workers and their families; b) maintaining satisfactory levels of production; c) conserving natural resources; and d) obeying laws that regulate labor relations.⁷⁰

The 1988 Constitution, article 184, provides for expropriation of land for "social interests of

⁶⁸ "A Ofensiva da Direita no Campo," Versão Preliminar, 1988, prepared by CPT, ABRA (Associação Brasileira de Reforma Agrária), IBASE, and MST, citing *O Germinal-Centro-Oeste*, April 1987.

⁶⁹ Blakemore & Smith, eds., *Latin America, Geographical Perspectives*, p. 359.

⁷⁰ 1985 Agrarian Reform Law, art. II, sec. 1.1.

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agrarian reform" with prior just compensation. Expropriation is a means to several ends, first among them the "just and adequate distribution of property," as well as rational exploitation of land and economic and social recuperation of regions, according to the 1985 Agrarian Reform Law. Productive land is not to be expropriated, as long as it complies with the four conditions set forth in that law.⁷¹ The language of the 1988 Constitution is so vague in this area, however, that critics claim that agrarian reform is effectively impossible as long as any piece of land is deemed potentially productive.

Underlying the desire to redistribute land in general is the notion that the "gross inequality of land distribution is an obstacle to economic growth and the improvement of social welfare."⁷² First, both the *latifúndios* and the *minifúndios* are wasteful of resources. Second, grossly unequal land distribution can slow industrial expansion. Lacking income, the mass of rural poor cannot buy the products of the new industries, which require an internal market. Third, living conditions for most of the rural poor are appalling.⁷³

Although land reform aims to modernize agriculture and reduce some of the social and economic inequalities, its success:

... depends on the government. It is only in countries where the poor have acquired significant political influence, or where the government is determined to win mass support, that real land reform has taken place.⁷⁴

This is not the case in Brazil, where there is a huge gap between reform legislation and reality in the area of land reform and rural working conditions.

The goal of the Sarney government was to expropriate 41.8 million hectares of land from 1985 to 1989; it actually expropriated little more than 10 percent of that number, 4.9 million hectares. Of the 1,361,600 families who were to benefit by the land reform program, only 45,778 families were actually settled on the land, meeting only three percent of the target.⁷⁵ Minister Cabrera estimated that, of the 89,000 families he says were settled by the Sarney government, 40,000 have abandoned the land because of lack of government services and support.

The bureaucratic delays are enormous. The federal agrarian reform agency, Instituto Nacional de Colonização e Reforma Agrária (INCRA), surveys the land and prepares a petition for expropriation, which must be signed by the President and approved by a federal court. Even this limited amount of land reform had to be pushed along, at the local level, by the pressure of organized landless farmers engaging in land occupations, sit-ins in public buildings, and other demonstrations.⁷⁶

⁷¹ 1988 Constitution, Article 185, Section II.

⁷² Bromley & Bromley, *South American Development* p. 49.

⁷³ *Ibid.*, pp. 49-50.

⁷⁴ *Ibid.*, p. 51.

⁷⁵ CPT, *Conflitos no Campo Brasil/89*, p. 51.

⁷⁶ Sometimes the *fazenda* owners do not object to federal expropriation and payment, especially when the owner was not using the land, has other *fazendas*, and will receive a good price from the government. The current Minister of

Although the agitation for land produces a sharp reaction from the vested interests, including assassinations of rural leaders, the government does not protect against these killings. This is another indicator of the powerlessness of the rural poor.

The Collor government, a very conservative coalition elected in late 1989 which received strong support from large landowners, has declared that it will put a halt to expropriations of invaded land. Minister of Agriculture Cabrera told Americas Watch that expropriations only encourage further land occupations. The solution the Collor government proposes—because it, like its military and nonmilitary predecessors, gives lip service to land for the landless rural workers—is to settle them on land already belonging to the state. In June 1990, 941 landless families were given titles to state land by the new government. Furthermore, Minister Cabrera recognized the need for credits and other assistance to the small farmers.

According to Minister Cabrera, the government has a pool of three million hectares that has already been expropriated for agrarian reform purposes by preceding governments. The three million hectares are empty. Assuming that each family were to receive 50 hectares (the economically viable amount depends on the zone and fertility), this would be enough land for 60,000 families; the Minister himself has estimated that there are two million rural laborer families without land or access to it.

The land the government currently has available for agrarian reform purposes is clearly not enough for even the Minister's low estimate of need.⁷⁷

The Collor government, like its predecessors, however, has focused on the countertrend in South American agriculture: the establishment of agribusinesses for export crops. Export crops generate foreign exchange earnings, with the significant drawback that agribusiness export crop cultivation has resulted in decreased food production and increased food prices, as in the case of soya production discussed above. Export crops grown on smallholdings, however, where they can be combined with the cultivation of food crops, provide more employment and spread the incomes earned among a larger number of people, as was the case with coffee production in southern Brazil after 1888.⁷⁸

Agriculture told Americas Watch that some *fazendeiros* regarded being expropriated as "good business."

⁷⁷ Efforts to use other governmental lands for agrarian reform are liable to run into competing considerations. Cabrera noted that 46 percent of all land in Brazil is not in private hands; there are 8.5 million square kilometers (850 million hectares) of land. Much of that nonprivate land, however, is occupied for governmental or other designated purposes: federal frontiers, municipalities, Indian tribes, or is subject to environmental and other constraints, including 150 million hectares of land in the Amazon. This governmentally protected land presumably is not included in the 500 million hectares of land surveyed for agricultural purposes, most of which probably falls in the 54 percent of privately held land.

⁷⁸ Bromley & Bromley, *South American Development*, p. 33.

III. Impunity and the Justice System

A. The Civil Police

The violence directed at the rural workers movement is rarely investigated or punished. As previously stated, from January 1, 1964, to December 31, 1989, the CPT registered a total of 1,566 assassinations of rural workers, Indians, and lawyers, religious and other professionals linked to the struggle for land.⁷⁹ Of the 1,566 assassinations in 26 years, there have been only 17 trials and only eight convictions—in nine cases there were acquittals.

The first conviction of a *fazendeiro* for violence committed against a rural worker occurred on September 29, 1988, when Francisco de Assis Amaro was sentenced to 27 years in prison for the murder of three Indians in Minas Gerais.

Then, on April 25, 1990, *fazendeiro* Boaventura José de Magalhães was convicted for the murder of Júlio Rodrigues de Miranda, killed in Bonfinópolis, Minas Gerais, in 1985. During his first trial held in 1987, he was acquitted on the grounds of self defense. The case was reversed on appeal,⁸⁰ and on retrial the jury, by a vote of four to three, convicted Magalhães of manslaughter (*homicídio culposo*) and sentenced him to two years.

The CPT tabulated the following killings over land conflicts from January 1, 1985 to June 30, 1990, indicating a trend that dipped during the year of the presidential election but increased thereafter:

Annual Killings over Land Conflicts

| 1985 | 1986 | 1987 | 1988 | 1989 | 1990 (First half) |
|------|------|------|------|------|-------------------|
| 125 | 105 | 109 | 93 | 56 | 32 |

The majority of the killings are carried out by private parties. These are often assassination-type killings targeting specific leaders, and are committed by persons who usually cannot be identified. Some recent examples include the cases of the Canuto brothers and Bras de Oliveira and his assistant near Rio Maria, Pará (see chapter VI), Raimundo João Sabino and Aldionor Cardoso da Silva in Maranhão (see chapter VI), and of course, the 1988 case of Chico Mendes in Acre (see chapter IV).

There are also cases of violent attacks by private gangs of thugs or gunmen hired by the landowners to evict the settlers from land without benefit of a court order, as happened at *fazenda* Serra

⁷⁹ No reliable organization systematically investigates the cases of *pistoleiros* and other agents for the *fazendeiros* and police who have been killed as a result of land conflicts, but it appears that far fewer from this side have died.

⁸⁰ In Brazil, the prosecution may appeal an acquittal on the grounds of procedural error or because the decision went against the weight of the evidence.

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Verde in Paraíba, after the landlord lost his suit. The police never charged anyone although the settlers identified several of the gunmen by name, and three settlers were severely wounded (see chapter VIII).

These murders and attacks should be investigated by the civil police, who are under the jurisdiction of the state Secretary of Public Security, and have offices in the municipalities. There is a requirement that the police chief (*delegado*) have a law degree, but this is often waived in rural jurisdictions. Many of them do not have training in investigative techniques or forensics, and in the rural areas, the *delegado* often has only a secretary (*escrivão*), and one or two agents, if that, to assist him. The office will be located in a town but often lacks a car and other resources necessary to undertake a professional investigation. A military police contingent may be assigned to the civil police to assist, but all police forces complain of inadequate resources and frequently decline to investigate cases or provide protection because of lack of funds and personnel.

The principle defect in the civil police investigations is that they are too little, too late. Lack of interest rather than lack of resources seems to be the real reason for what can only be described as grossly negligent investigations and total lack of due diligence. In the Maranhão cases, no effort was made to gather physical evidence and the witness interviews, where they occurred, were long after the fact. Unless the crucial police work is done promptly, evidence will be lost and memories will fade. Prompt and thorough police investigations would also send the signal that such killings matter to the authorities.

The criminal justice infrastructure in most rural areas seems adequate to deal with small crimes but, even assuming the good will of the local authorities, this system is not equipped on its own to investigate and vigorously prosecute suspects who are members of the local elites. Where there have been police investigations that result in enough evidence to try a case, it appears that these investigations do not come about as part of the regular course of events but because political forces outside the region and even outside the country have pushed for investigations and managed to sustain the pressure. Such is the Chico Mendes case in Acre, where the worldwide environmental movement propelled it to the first page of *The New York Times*, and the Canuto brothers case in Pará, where state deputies clamored for an investigation. (The rumors that the defendants in the latter case were linked to the electoral adversary of the governor of Pará made some believe that the investigation was electorally motivated.) Even in these cases, there have been multiple stumbling blocks.

We focus on adequate investigations because all too often there may be an arrest or two by the police in the initial stages of a case, but then the person arrested is released for lack of evidence after a half-hearted investigation. The case usually dies there. The appearance of police activity and judicial due process is created, but the case goes nowhere while the players in the criminal justice system can claim they carried out their roles.

An especially outrageous example of an incomplete investigation was the *fazenda* Arizona case involving murder and forced labor in Pará (see chapter VI). The police finally went in search of the body of an alleged murder victim—more than 30 days after the complaint—accompanied by the very people accused of his death, and who steadfastly denied their guilt. The workers who last saw the victim (in the company of the accused) were not invited to the crime scene by the police. The accused were later released; the body was never found.

In another case of an incomplete investigation, on August 12, 1983, Margarida Maria Alves, 50, president of the rural workers' union of Alagoa Grande, Paraíba, was assassinated by three *pistoleiros* and a cattleman. According to the CPT, there were six *fazendeiros* and industrialists of the region who ordered

the killing. Cattleman Antônio Carlos Coutinho Régis was tried and acquitted for lack of proof in July 1988. No one else was tried and two others charged with executing the crime had not been arrested.⁸¹

The Institute for Popular Legal Support (Instituto Apoio Jurídico Popular, AJUP), however, gathered evidence for the case and presented it to a popular tribunal held to denounce impunity in rural violence cases. As a result of their efforts and publicity, the Alves case has been reopened—a unique event. Obviously, had the police initially conducted a proper investigation, the AJUP parallel investigation would not have been needed.

B. The State Judiciary, Prosecution and Defense

The state court judge has an important role in the investigation of criminal cases.⁸² In the rural areas, the judges sit in courts of combined jurisdiction, including civil, penal, electoral, labor, and other subject matters that are divided into separate courts in the larger urban areas. This means that one state court judge in the rural areas has tremendous power.

Ordinarily, all arrests must be conducted pursuant to a warrant issued by the judge at the request of the police, unless the crime is in progress in the presence of the police or they are in hot pursuit.⁸³ Search warrants must be issued by a judge as well, and searches may only be conducted during the day; at night, there may be no searches unless a crime is in progress. Therefore, the judge frequently has—or should have—knowledge of the details of a case before any formal charges are brought. The judge receives police notice when a crime has been committed if there has been an arrest (if the arrest is without warrant, the judge must be notified within 24 hours), or if there has not been an arrest at the end of the 30 day police investigation period. If the police want to continue to investigate, they are obliged to send a report to the judge at the end of 30 days, even if the investigation is inconclusive.

The state prosecutor (*promotor*) in a criminal case is under the jurisdiction of the state Attorney General (*Procurador Geral*), who is head of the state Public Ministry (*Ministério Público*).

The prosecutor has the obligation of bringing charges against the accused. The prosecutor receives the police report and other official papers in the case when the police inquiry is completed and the prosecutor must present his recommendations to the judge within 15 days (five days if there is a detainee). He may press charges or recommend further investigations (which might require an extension of time) or recommend that the case be closed.

⁸¹ CPT, *Conflitos no Campo Brasil/89*, p. 62; Amnesty International, *Brazil: Authorized Violence in Rural Areas*, 1988 (London: Amnesty International, 1988), pp. 31-32.

⁸² The state courts are located in municipalities but not all municipalities have a court. There is a state appellate court in each state in the state capital. The state courts are dependant on the state legislatures for budgetary appropriations. The state appeals court selects candidates for lower court judge from a list of those passing the examination for appointment by the state governor. The lower court judges have life tenure after two years' probation.

⁸³ A December 1989 law allows for arrest and incommunicado detention without court order for up to five days in certain cases (kidnapping, narcotics trafficking, rape, private jailing, and organizing a criminal band).

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The judge receives the report of the police inquiry through the prosecutor, and has considerable latitude in developing additional evidence once the judicial pre-trial proceedings are opened (after the judge accepts the charges from the prosecutor). The pre-trial phase is applicable only in homicide and attempted homicide, which are also the only crimes for which there is a jury trial.

The accused may be freed, and often is, when the time limits relevant to police inquiries and charges are not observed. *Habeas corpus* is available for this purpose and frequently used when attorneys are retained.

During the pre-trial phase, the judge hears the accused and witnesses for both sides and may subpoena witnesses and evidence on his own (without waiting for the prosecutor or defense attorney to make a motion). He may visit the crime scene and consult with experts.

At the pre-trial phase, the victim or his family may be represented by an attorney, an *assistente de acusação*. This attorney does not have the same latitude as the prosecutor, however; the victim's representative can only propose evidence, question the witnesses, be heard in arguments on motions, and in certain cases, take appeals. The victim's representative cannot subpoena witnesses and can only suggest to the judge that the witnesses be heard by the jury. The prosecutor can refuse to call witnesses and it is up to the judge or, hypothetically, the jurors, to ask to hear a witness (upon hearing the transcript of the testimony read).

There is no grand jury. The judge must determine whether the evidence is sufficient for a jury trial in homicide or attempted homicide. A defendant can only be jailed for 81 days after his arrest unless the judge has ordered him held for trial.

The jury is chosen from a list of 21 jurors drawn up beforehand by the judge, from residents meeting certain qualifications. It is up to the judge to assure that the list is representative of the community.

Jury trials continue until a verdict is reached; they are not adjourned. Witnesses may be called or their pre-trial depositions may be read. The jurors, seven in all, do not confer among themselves. They are polled by the judge in front of the defense attorney and prosecutor. Their votes on questions (by putting a "yes" or a "no" card in the box) are secret.

We found judges who were impartial but also judges who betrayed their animosity toward rural activists. The latter had the feeling that the activists, by committing acts of civil disobedience such as occupying land (trespassing) or, in rarer cases, engaging in self defense against landlord's gunmen, were "asking for it" and therefore did not deserve the assistance of the police or courts.

The judge who in rural areas sits on the criminal cases of those accused of murdering rural activists may be the same one who hears the petitions of landlords for eviction orders. The courts are usually perceived as favorable to the landlords, in part because it is much easier for a landlord to secure a civil order of eviction than it is for rural activists to see the murder of a colleague properly prosecuted, which, as we have seen, is a rare occurrence in the Brazilian justice system.

For all of 1989 there were a total of 99 cases where judges were asked to resolve land conflicts. The rulings went in favor of rural workers in only 34 of the cases, against them in 52, and 13 were resolved when violence was used by the authorities enforcing the order. Also in 1989, the number of families

evicted with court orders increased 30 percent over 1988: 2,387 families in 1988 and 3,107 in 1989. (The 1990 figures so far are lower, but will not be available until the end of March 1991.) There were 42 preliminary eviction orders (*liminares*) given in 1989.⁸⁴

The military police are the ones called upon to enforce judicial orders of eviction and in some cases they have been responsible for excessive use of force, resulting in killings, injuries and destruction of property.

C. The State Military Police

The state military police are under the authority of the civilian Secretary of Public Security (appointed by the state governor). They can be called up by the military forces in cases of emergencies and then are under the jurisdiction of the federal Chief of Staff of the Armed Forces. In many states, the military police are subject to the jurisdiction of the state military courts, according to the state constitution. Military police are responsible for most police functions except for the investigation of criminal offenses.

The use of excessive force by police has three aspects: police procedures, judicial procedures, and use of private parties. The most immediate is the problem of police procedures used to evict settlers, many of whom are women and children. It would appear that armed force is not appropriate in these circumstances, and that it is at times used before other means, such as negotiations, have been exhausted. This is clearly not proper police procedure.

We have seen examples of negotiations leading to a peaceful removal of the settlers from land that is the subject of court order during various stages of the Santa Elmira case in Rio Grande do Sul, prior to the March 1990 bloody eviction (see chapter IX). Negotiations appear to be more frequently used in the south than on the frontier. But there are many cases, such as *fazenda* Matary in Maranhão (see chapter V), where violence appeared to be the first course of action.

In these latter cases, the police methods used went far beyond the means necessary to accomplish an eviction: beatings after capture are scarcely required. Shooting or beating settlers and destroying their property appear to be used to punish and discourage them from returning to the land they claim.

Refusing or neglecting to follow judicial procedures is a second aspect of excessive use of force by the police, and it is intertwined with the first. As an initial pretext, when the police arrive on the property they accompany a judicial employee for "protection" as he reads off the court order to the settlers. If the settlers do not heed the court order, the official is to return to the court where the judge, at the motion of the plaintiff, is to issue further orders, possibly even authorizing the police to evict. In some cases, the landowner plaintiff alleges there will be violence and the judge authorizes the use of police force without the intermediate step of having the judicial employee return for further orders after an order has been publicly read and ignored. This is not proper procedure, according to Brazilian lawyers.

⁸⁴ CPT, *Conflitos no Campo Brasil/89*, pp. 15-16. There were also expulsions, without court order, of 3,923 families in 1988 and 1,842 families in 1989.

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In the *fazenda* Matary case, for instance, the official showed up accompanied by at least 80 armed, uniformed police, who proceeded to arrest and beat those settlers they could catch. They were interrogated and their huts were burned. The official had no real role in this military operation, which was planned in advance as such, with the court's consent. His presence appeared to be a pretext for the operation; the intermediate step of returning to the judge for further orders was skipped.

These eviction scenarios are aggravated by another factor. It is perfectly legal under Brazilian law for the court to issue a preliminary order of eviction without notifying or hearing from the settlers who are to be evicted, if the plaintiff alleges the settlers have been there less than a year and a day—a frequent allegation, whether true or not. Indeed, sometimes these orders are sought quietly so that the police may be mobilized and "surprise" the settlers. If the settlers learn of the evictions and have access to volunteer lawyers, it is possible, with a team of lawyers, to stay the eviction order at the appellate level.

When the eviction order is issued surreptitiously, and the step of the official reading of the formal "notice" to the settlers is omitted before sending in a massive police operation, the possibility for violence is magnified. We believe that judges who authorize such procedures abuse their authority and violate due process.

Surprise eviction orders that are illegal only promote willingness to disobey court orders. It also makes it hard as a practical matter for the settlers' possible defenses and claims to the land to be heard in court. Once the settlers are dispersed by the eviction, possibly to other jurisdictions, it is hard to motivate them to legally defend land they no longer farm.

Another problem is the fact that private parties, usually *pistoleiros* hired by the landowner, often accompany the police; the settlers recognize them on occasion. This tends to promote violence, to say nothing of destroying any notion of police impartiality. The fact that *pistoleiros* are present also gives the police an out when violence occurs; they can claim it was not they who shot, but "third parties."

In very few cases has police violence been seriously investigated and punished. At the *fazenda* Miril in Maranhão (see chapter V), where a captured worker was shot by the police during an eviction attempt, no investigation was undertaken, although the settlers publicly denounced the killing of the worker, who died handcuffed to a boat. The fact that the settlers later exchanged fire with the police and a sergeant was killed received extensive police attention, however.

One of the few cases in which the military police were held responsible (although not criminally) was for the deaths of two striking cane cutters on a picket line in 1986 in Leme, São Paulo. Four years after the police tried to blame the deaths on leftist deputies who were there to support the strikers, a judge in a damage suit ruled against the police. The state now must indemnify the victims' families.⁸⁵

In addition to committing acts of violence against settlers, the police have often failed to provide protection for rural activists who have been threatened. This has been a serious problem throughout Brazil and not just in the Chico Mendes case. Both the civil and military police located in rural areas have been accused of being too heavily influenced by the local power elites and of tilting in their favor in land disputes, then turning a blind eye to threats against rural activists.

⁸⁵ Ibid., p. 17.

Attorneys for the rural workers have tried to make use of the judicial system in a creative attempt to establish the principle of state duty to protect threatened citizens. In 1986, attorneys for the mother of assassinated priest and CPT official Father Jósimo Moraes Tavares, including Luiz Eduardo Greenhalgh (currently deputy mayor of São Paulo), Pedro Luiz Dalcero, Osvaldo Alencar and Sister Michael Mary Nolan, sued Goiás state and federal authorities in federal court for damages arising from the authorities' failure to protect him. In this case, Father Jósimo had amply documented the continuing threats to him and presented this documentation repeatedly to police authorities, with repeated requests for protection. He was ignored. The President of the National Catholic Bishops Conference presented this documentation to President Sarney and asked him to take measures to protect Father Jósimo. He was also ignored. Father Jósimo was killed in front of the CPT office by gunmen not long after receiving a threat and asking for police protection. Presently the case for damages, having been dismissed by the lower federal court, is on appeal to the regional federal appeals court in Brazil.⁸⁶ The state's defense was that if he was threatened he should have left town.

D. The Federal Police

A small department of federal police, 6,000 in all, is based in Brasília and in each state capital. There is a Superintendent of federal police in each state.

The existence of forced labor is a serious problem for which there is no adequate state or federal concern. The federal police have jurisdiction over cases of "reducing a person to a condition analogous to slavery" (Penal Code article 149), or "slave labor" as it is called in Brazil when the laborers have crossed state lines, as they frequently do. Despite complaints they receive, the federal police rarely investigate or prosecute these cases, which usually involve the use of forced labor and physical abuse, including murder and beatings of migrant labor, on remote *fazendas*.

The federal police have exclusive jurisdiction over certain other federal matters such as smuggling, and interstate drug trafficking (Constitution, Tit. V, article 144). They tend to concentrate their resources there.

⁸⁶ Ibid., p. 16.

IV. Acre

A. Background to the Struggle: The Nature of the Rubber Economy

The vast rain forests of Brazil are an important source of global oxygen; their burning helps deprive the earth of atmospheric replenishment and also releases significant amounts of carbon dioxide. Because of the possible contribution they make to global warming, the burnings play a significant role in attracting the world's attention to the human rights events in Acre. One event in particular has galvanized international attention: the 1988 assassination of union and environmental leader Francisco Alves Mendes Filho, or Chico Mendes.

The rubber tree is native to the Amazon. For hundreds of years, Indians living in the rain forest have been making everyday objects out of the rubber trees' sap. In the 1870s, rubber came into commercial use and the demand produced a rubber boom in the Amazon. Poor, landless farmers came by the thousands from other parts of Brazil to collect and smoke the latex for transport down the Amazon's tributaries and to market.

Because of the remoteness of the rubber tapping areas, the intermediaries who purchased the rubber served as the rubber tappers' only link with the outside world. This dependence conveyed tremendous power to the middlemen, who set the price for tappers' latex and controlled tappers' access to money and goods. Consequently, most tappers lived in a situation of deep indebtedness, but every tapper family worked a tract of forest large enough to extract enough latex to make a living without damaging the trees. Many tappers' families lived in the same area for generations.

The western state of Acre's population numbers 411,984 people, with a density of 2.6 per square kilometer. This small state covers 153,647 square kilometers (59,323 square miles).⁸⁷ Acre's economy was dominated by rubber until its cultivation spread to plantations in Asia, which by 1922, captured 93 percent of the world rubber trade. When the Japanese blocked access to cheaper Asian rubber during World War II, demand for Brazilian rubber revived. Then, after the end of the war, the Acre rubber economy slumped again.

The tappers continued to collect rubber, however, and supplemented their declining earnings by gathering Brazil nuts. In the 1960s, a decision by the Brazilian government to colonize the Amazon threatened the sustainable forestry still worked by the rubber tappers. Acre governor Wanderley Dantas launched a publicity campaign in 1972 to attract investors and land buyers from the wealthier, southern portions of Brazil. At that time, 75 percent of the state was unclaimed public land, but in a few years, virtually all public land had been claimed, sold and resold by land speculators and investors, most of whom intended to convert it to cattle pasture. Many of the transactions involved bribery or fraud. And the transactions ignored that thousands of people—Indians and tappers—had been living on the land for generations without formal titles. Because Brazil bought Acre from Bolivia in 1903 (although Acre did not become a state until 1965), the situation of land titles there was further complicated by the existence of old

⁸⁷ IBGE, *Anuário Estatístico do Brasil*, 1989 supplement.

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Bolivian titles to land now claimed by Brazilian investors and speculators.

The new land owners wanted their tracts cleared of anyone living there, and used various methods—including threats and violence—to expel the inhabitants. As a result, 5,000 tappers (and by some estimates several times that number) left for Bolivia during the 1970s. Others streamed into Acre's capital, Rio Branco, which in 1971 had 30,000 inhabitants, but by 1989 had 161,000. Most of the new arrivals took up residence in the *favelas*, or slums, around the city. The price of land, especially along roads newly built by the state, increased dramatically.

Some tappers who chose to stay in rural Acre organized to resist encroachment on their traditional lands and to prevent forest destruction. The tappers adopted a tactic known as *empate*,⁸⁸ in which union members—and later their entire families—sat on tracts of land that were to be cleared, often destroying sheds and possessions belonging to the clearing crews. Members of the clearing crews, themselves usually migrant workers who were as poor as the tappers (see chapter VII on forced labor), were not interested in violent confrontations and usually gave up easily. The tactic of *empate* was and is quite successful and tensions grew between tappers and new landowners, most of whom were cattle ranchers. Unlike some sections of the Amazon which have undergone extensive burning, 97 percent of Acre's territory is still covered by rain forest.

B. Violence and Prosecution from 1980 to 1988

From 1980 to 1988, when Mendes was assassinated, rubber tapper activists were targeted with violence and threats of violence. Until Mendes' death provoked unexpected worldwide condemnation, this violence evoked no serious investigation or punishment by any level of government. This permitted the local thugs to continue their practices against the activists, culminating in the elimination of Mendes, which might have been avoided had the authorities made even a pretext of applying the law.

At a July 1980 public meeting in Brasília, a town on the border with Bolivia 65 miles from Mendes' hometown of Xapuri, tappers and ranchers vented their differences, which were broadcast live on the radio. These included a threat from a Xapuri municipal employee: "The only way to resolve the land conflicts here is to kill the president of the union, the delegate from CONTAG, and the priests who are instigating the rubber tappers. Soon there will be many widows in Acre."⁸⁹

It was not long after the heated public meeting in Brasília that Wilson Pinheiro, head of the STR, was assassinated in the rubber tappers' union hall on July 21, 1980. Pinheiro, 47 years old and a father of eight, had been elected union head in 1977, and during his tenure was particularly successful in organizing *empates*.

Tappers suspected that ranch manager Nilo de Oliveira was responsible for the murder. Pinheiro's colleagues announced that they would give the authorities seven days to find the killers and threatened to take justice into their own hands if the deadline was not met. When by the seventh day the police did not

⁸⁸ *Empate*, literally meaning "equalizing" or a "draw" as in gambling, is a tactic used by the rubber tappers to prevent the clearing of the forest.

⁸⁹ Revkin, *The Burning Season*, p. 156.

make any progress in the investigation, several dozen armed tappers met de Oliveira on a road and killed him.

The police vigorously pursued those believed to have killed de Oliveira but did little to clarify the killing of union leader Pinheiro. They arrested more than 100 tappers and tried to gain a forced confession of who killed de Oliveira. Several of those arrested were severely tortured. Five tappers and union leaders, whose only crime was to have delivered speeches at a rally following Pinheiro's death, were charged in a military tribunal with violations of the national security law. The five leaders were briefly imprisoned but absolved of any crime in 1984. Two of those arrested were Luiz Inácio da Silva, "Lula," who in 1989 became the presidential candidate of the leftist PT, and Chico Mendes. Ironically, in his speech after Pinheiro's death, Mendes had urged the tappers to refrain from violence.

Twenty-eight tappers were charged in state court with killing de Oliveira, but the case never went to trial and the detainees were released within a month for lack of evidence. The investigation of the killing of union leader Pinheiro also stalled, repeating a pattern typical throughout Brazil of impunity for the perpetrators of violence in land conflicts.⁹⁰

During the 1980s, Chico Mendes continued union organizing and ran for political office. He found powerful allies among environmentalists, and received international environmental awards as he presented the case to save the forest for the *seringueiros* and Indians in Brazilian cities and abroad.

By 1988, the situation in Xapuri was particularly tense because tappers scored some victories with *empates*, preventing forest cutting and dispersing the men hired to cut. On May Day pamphlets were found in various places in Xapuri threatening Chico Mendes, Gomercindo Rodrigues, Raimundo de Barros and others—all rubber tappers' union leaders.

Violence increased in late May, when tappers organized a peaceful occupation of the Xapuri forestry office. Because Brazilian law prohibits the deforestation of areas containing particularly valuable species of trees, the tappers were attempting to force the revocation of a permit issued to a local landowner to cut down 50 hectares of forest containing rubber trees and other species. On the night of May 26, several dozen tappers were sleeping in and outside the forestry office. At 2 a.m., Darci and Oloci Alves, sons of local rancher Darli Alves, rode by on a motorcycle. They stopped briefly and fired randomly into the group of tappers. A 15-year-old boy was hit seven times, and a 17-year-old tapper was hit twice. The victims, although seriously injured, survived.

These murder attempts received scant attention from the authorities; not surprisingly, one of the perpetrators, Darci Alves, committed murder a few months later. It was only after his December 1988 murder of Chico Mendes that Darci, with Oloci Alves, was arrested for the attempted murders at the forestry office.⁹¹ Their trial was finally held in Xapuri on June 26, 1990, and they were convicted of attempted murder, each sentenced to twelve years in prison.

⁹⁰ In 1989 during the aftermath of the killing of Chico Mendes, the investigation into the killing of Nilo de Oliveira was reopened. In 1990, the prosecutor in Brasília told Americas Watch that the investigation of the killing of Wilson Pinheiro was reopened as well, because "new facts have come to light."

⁹¹ According to the prosecutor in Xapuri, Dr. Eliseo Buchmeier de Oliveira, there were 10 murder investigations underway in Xapuri as of July 1990. Members of the Alves family were implicated in five of them.

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Within weeks of the shooting incident at the forestry office, a 26-year old union leader and Workers' Party candidate for town councilman in the upcoming local elections, Ivair Higino de Almeida, was assassinated. On the day of his death, local papers had published an open letter to Brazilian authorities from several human rights activists expressing concern about the violence and intimidation directed by landowners and members of the Alves family in particular at rubber tappers and unionists. Prior to his death, de Almeida had received threats from the Alves clan. Others have alleged that a competing candidate in the election was responsible for his death. As of this writing, his assassination remains unsolved, although at the Chico Mendes trial in December 1990 a witness testified that de Almeida was killed by Mendes' murderers as well, because they believed him to be a "flunky" for Mendes.⁹²

June 1988 was marked by further incident when gunmen fired three bullets at the house of the Brasília tapper union leader Osmarino Amâncio Rodrigues in the middle of the night. This too had no penal consequences.

In early July, two tappers—Manoel Carlos da Silva and Francisco Jorge Souza—were victims of an attempted assassination. On September 11 an ex-tapper, José Ribeiro, was assassinated by two gunmen. Prior to his death he had had a fight with some of the Alves sons and they publicly vowed to kill him. As of this writing no charges have been filed in this assassination. Another tapper, José de Souza Santos, was killed on September 12, 1988, in Xapuri.

This spate of killings received virtually no police attention.

C. The Case of Chico Mendes

Chico Mendes, the leader of the rubber tappers union in Xapuri, Acre, was murdered there on December 22, 1988. His death was a classic case of police failure to take preventive and protective action, despite repeated requests by the victim to do so. This failure was consistent with a long pattern of ignoring violence against unionists.

As tension grew in Xapuri and nearby Brasília during mid and late 1988 due to the conflict between landowners and rubber tappers, Mendes continually received death threats. He had already survived five attempts on his life and believed that the Alves family, which owned a medium-sized Acre *fazenda*, was behind the most recent threats. They had a reputation for being extremely violent and dangerous, and after a successful *empate* organized by Mendes earlier that year, they made open threats against him.

Mendes hoped that he could protect himself using legal means. He and members of environmental groups with whom he worked discovered that there was a 1973 arrest warrant against the family's leader, Darli Alves, for a murder in the state of Paraná. The arrest warrant (*mandado de prisão*) was delivered by an attorney acting for the rubber tappers to the head of Federal Police in Acre, Mauro Spósito, on September 27, 1988, so that Alves could be detained.⁹³

⁹² Eugene Robinson, "Witness Tells of Ranchers' Lawlessness," *The Washington Post*, December 15, 1990.

⁹³ No special procedure is required to arrest an accused in one state with a warrant issued in another.

That same afternoon, Mendes spotted Alves drinking beer near police headquarters. Mendes called Spósito's office, spoke to the police chief's deputy, and asked that Alves be arrested. Nothing happened. The warrant was finally sent by mail and reached Xapuri on October 18, when the local judge ordered the police to capture Alves. By that time, he was in hiding, having found out about the warrant ahead of time.⁹⁴

Indeed, a court clerk in Xapuri, Raimundo Dias Figueiredo, later said in a deposition taken by the police that:

... in September or October [1988] ... he was approached at his work place by the individual known as Darli Alves, who was trying to find out about the existence of an arrest warrant from the state of Paraná.

When the witness said he knew nothing about such a warrant, Alves, according to court records, said "that he was certain that this warrant has already arrived and was at the Federal Police and that ... Chico Mendes, had a copy of it ..."

Mendes made several more attempts to protect himself from his enemies, sending telexes to state and federal authorities which named Alves clan members as his potential assassins. He never received a response from the federal government.

Local authorities assigned Mendes military police bodyguards, whose guns apparently did not work. His guards had submachine guns but by the time of his assassination, for reasons that are not clear, the automatic weapons were removed and substituted with imperfectly functioning pistols. Ultimately, the guards proved useless in saving Mendes' life. Enforcement of the arrest warrant would have been far more effective.

Chico Mendes was killed on the back steps of his home in Xapuri on the evening of December 22, 1988, by members of the Alves clan. He had stepped outside to take a shower (in a detached shed). His two assailants, who were hidden from sight and lying in wait, shot and killed him then fled. Mendes' four military police bodyguards, who were inside his house, literally ran for their lives when they heard the shots, leaving the dying Mendes in a puddle of blood.

Because of Mendes' prominence in the international environmental movement, his killing, to the surprise of many Brazilians, received enormous international publicity. As a result, police set out to investigate the assassination with greater energy than otherwise would have been the case. A manhunt was organized for the prime suspects, the Alves. Four days after the killing, Darci Alves, 21, one of Darli's sons, gave himself up to the police and confessed to the crime, citing a personal vendetta. On January 7, Darli Alves, who had been hiding in the forest for weeks, also surrendered to the police.

⁹⁴ One of the explanations given by Spósito after Mendes's death was that there had been some "irregularities" in the way the warrant was delivered to him. Had he displayed any willingness to protect Mendes, however, he could have contacted the Paraná judge, and detained Alves on September 27 even if he did not have any warrant at all. Before the new Constitution took effect on October 15 of that year, the police could detain anybody for questioning for 24 hours without a warrant.

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Darci Alves was charged with murder, and his father DarlÍ with having ordered the crime and thus having participated in it. Darci walked the police through a reconstruction of the murder scene. His detailed testimony was buttressed by physical evidence.⁹⁵

João Lucena Leal, a defense lawyer in this case, appeared on a list of 444 torturers compiled by the "Brazil: Never Again" project (*Brazil: Nunca Mais*), which documented torture under the military dictatorship. Lucena had been a police officer before going into criminal defense work.⁹⁶

After a four-day jury trial in December 1990, during which Darci again confessed to the murder, both were convicted, the father of planning the murder and the son of pulling the trigger. Both received 19-year sentences.

Although it took almost two years to bring the case to trial, this speed is virtually unheard of in Brazil.

D. The Investigation into the Assassination of Chico Mendes

Chico Mendes, like Pinheiro before him, earned the enmity of ranchers and landowners. There were numerous attempts to intimidate him. In early 1980, for example, four hooded men bundled Mendes into a car in Rio Branco, severely beat him and dumped him on a street. By 1988, he had survived five attempts on his life.

Despite several indications that there might have been a conspiracy, the Mendes murder investigation never probed this possibility.

✎ The *O Rio Branco* newspaper in Rio Branco had two reporters and a photographer on the scene of the murder an hour and a half after Mendes's killing. The journalists boasted that they received a call in their office in Rio Branco after the killing and rushed to Xapuri by car, in the pouring rain, stopping only to change a flat tire. According to all accounts and to the personal experience of the Americas Watch delegation, it is impossible to cover the 100 miles of very bad road between Xapuri and Rio Branco in an hour and a half, even in good weather. In addition, persons at the scene of the murder when the journalists arrived told Americas Watch that the hood of the journalists' car was cool and the car was clean, not covered with mud that would have characterized a long voyage on an unpaved road. It is possible that the journalists were waiting for the news of the killing in a nearby ranch, which would lend weight to the theory of a broader conspiracy. The Chief of Civil Police in Acre confirmed to Americas Watch that police had made no attempt to interrogate the journalists on their boasts of getting to the scene in record time.

✎ The same newspaper ran an editorial on December 6, 1988 saying that a "megabomb" would soon explode in Acre. In retrospect, the editorial could have been an allusion to plans to murder Chico Mendes. In January 1989 the paper argued that the reference was to a corruption scandal in an Acre town, hardly a major item.

⁹⁵ A third person named in the indictment, Jardeir Pereira, an employee of the Alves family, is still at large.

⁹⁶ *Veja*, September 5, 1990, p. 28.

- ☞ **A Rio Branco doctor overheard a conversation five days before Mendes's death that Mendes would be killed before Christmas. After Mendes was killed, the doctor went to the local bishop, Dom Moacir Grechi, who told Americas Watch that he notified the police but that they did not take the information seriously. The doctor was never formally interrogated. According to Bishop Grechi, the doctor currently fears for his life and refuses to talk about the incident.**
- ☞ **Police complicity in the Alves murder of Mendes is suggested by their failure to arrest DarlÍ Alves prior to the Mendes killing, although an arrest warrant on separate murder charges was on the desk of the Rio Branco Federal Police Superintendent, Mauro Spósito (see above). The head of Federal Police, Romeu Tuma, promised to investigate the negligence displayed by Spósito. If such an investigation ever occurred, its results were never made public. Mauro Spósito now occupies the important position of chief-of-staff in Tuma's office in the federal capital of Brasília.**
- ☞ **Similarly, police did not investigate who leaked to DarlÍ Alves that an arrest warrant for him had been delivered to the federal police. Other than Mendes' lawyer, the bishop and Gomercindo Rodrigues, one of Mendes' closest collaborators, only the federal police knew that a warrant had been issued and delivered.**
- ☞ **Finally, police did not investigate allegations that DarlÍ Alves was being paid by wealthy landowners to kill tapper leaders. In an interview with Americas Watch, one of the tapper leaders, Gomercindo Rodrigues, indicated that Alves was not a wealthy rancher; until the end of 1987, for example, he and his men always used the bus. Suddenly, prior to the Mendes murder, Alves was seen in a brand new truck, in the company of several paid workers. The police investigation did not explore the source of Alves's new-found prosperity.**

Although the possible conspiracy was not adequately investigated, the actual murder was investigated by the judge and state authorities effectively and professionally, even making use of forensic evidence on ballistics and hair.

We congratulate the police, the prosecutor, and the judge for their success in this case and in the forestry office case. We also congratulate the courageous jurors. They have shown that, even in remote rural areas of Brazil, justice can be done if the authorities are committed to it. Their example holds the rest of the law enforcement system—in over 1,500 other cases of similar killings—to shame.

E. Current Threats

Following the killing of Chico Mendes, several of his relatives and people close to the investigation received death threats. The most frequent target of persistent threats is the Brasília tapper leader generally perceived as Mendes's successor, Osmarino Amâncio Rodrigues. He has made several public appeals to police and federal authorities asking for protection.

According to Acre's Secretary of Public Security, Carlos Alberto Silva, during 1989 and the first half of 1990, police conducted five investigations into the threats against Rodrigues, without conclusive results. Silva also stated that the police would be willing to provide protection at any time Rodrigues wishes; such protection in Brazil is not free, however. Rodrigues had to ask for the removal of police

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guards assigned to him because he could not afford to pay for their food, accommodation and transportation and the state was not covering those expenses outside Brasília, according to his letter the police showed Americas Watch. Rodrigues encounters most danger on his frequent travel on union work. Osmarino Rodrigues was also a 1990 candidate for state deputy, and was elected first runner-up for his party.

Two other union leaders, Gomercindo Rodrigues, an agronomist who was an unsuccessful candidate for federal deputy in the October 1990 elections, and Raimundo Barros, Mendes' cousin, both from Xapuri, have told Americas Watch that they have received numerous reports about plots against their lives and that they live in fear and avoided certain activities as a precaution.

Even the Rio Branco bishop, Dom Moacir Grechi, was threatened shortly after Mendes' death. Bishop Grechi told Americas Watch that he received a phone call two days after Mendes' death from a man who claimed he had been hired to kill the bishop. Several days later, while the bishop was travelling in his jeep on a country road, he was stopped by a man who threatened him.

The Xapuri judge in the Mendes case, Dr. Adair Longhini, has also been a target of numerous threats since he has been on the case and his wife has even received threatening phone calls at her office. He has changed his home phone number several times and taken other precautions.

Dr. Eliseo Buchmeier de Oliveira, the successful prosecutor of both the Mendes case and the forestry office case in May 1988, has been threatened. Shortly after that June 26, 1990 conviction, this prosecutor was told that relatives of the Alves defendants were surprised that "he was still not afraid to walk around town after dark."

One assassination, that of José Britos on January 22, 1990, may be related to the Mendes case. According to the prosecutor, Britos was a witness in the May 1988 forestry office case; several days after their attempt, he bought the weapon used there from Oloci Alves. He gave a statement to the police to that effect. Britos had been trying to get in touch with the union leadership to convey to them an important piece of information about the Mendes case, the leaders were told after Britos' death. (His murder did not preclude the prosecution from using his statement at the trial, however.)

In May 1990, a list of 25 names circulated in Xapuri, which included relatives of Chico Mendes and union leaders. According to a document prepared by the rubber tappers' union for the police and the press and attributed to an unnamed source, these 25 persons were to be eliminated before the trial of Mendes's alleged killers.

The attention generated by the assassination of Chico Mendes has helped the tappers to achieve one of their major goals: the creation in March 1990 of a 970,570-hectare extractive reserve, to be used only by rubber tappers and others who will earn their living by extracting natural resources without damaging the forest. The reserve was decreed in one of the last moves of outgoing President José Sarney, and named after Chico Mendes.

Ironically, the creation of the reserve may have temporarily contributed to increased tension in Acre. Some of the thousands of tappers who left Brazil for Bolivia during the past twenty years are now returning in anticipation of being able to work in the new extractive reserve. Landowners in particular are alarmed about the potential growth of the *seringueiro* movement.

José da Silva Pereira, a tapper leader interviewed by Americas Watch in Brasília, said that shortly after the creation of the reserve, Gentil Alves da Silva (a relative of Darli and Darci Alves) threatened him, saying that "if he continued to defend *extractivistas* and tappers, his days would be counted."

On April 10, 1990, a landowner barged into the office of the tappers' union in Brasília. According to witnesses, he threatened to "kill everybody one by one, from the top to bottom, because he had enough bullets." He had been planning to cut 500 protected trees when tappers reported it to the forestry authorities, who issued an injunction. This enraged the owner and apparently led to these threats. He eventually was able to convince a judge to overturn the injunction and started clearing the forest on May 7.

On April 28, two landowners threatened to kill two rubber tappers legally working within their assigned tracts of forest.

On May 4, gunmen allegedly working on orders from a landowner, threatened 14 rubber tappers with death and the destruction of their houses if they did not stop expanding their tracts deeper into the reserve.

Although investigation of the Mendes case was sufficient to bring it to trial, it does not appear that the violence directed against less famous activists is being investigated and prosecuted. With the spotlight of international publicity turned on the little state of Acre until the trial was over, the general level of violence was down. If that level stays down, it can be fairly concluded that the two trials ending in convictions in 1990 had their desired effect of deterring violence. The real test will come now that the spotlight is turned off.

V. Maranhão

In the land conflicts of western Maranhão, landlords' *pistoleiros* have targeted the rural workers' union organizers for violence and assassinations, usually after these leaders have participated in land occupations. This death-squad style violence goes uninvestigated by the local authorities—from the police to the judges. A rare occurrence for the Brazilian justice system took place after Father Jósimo de Moraes Tavares, a priest and head of the CPT in Imperatriz, Maranhão, was murdered in 1986 in front of his office. The accused gunman, *pistoleiro* Geraldo Rodrigues, was tried, and convicted on April 19, 1988, and sentenced to 18 and a half years in jail. The *mandantes* or those who allegedly ordered the killing, Osmar Teodoro da Silva, Gilmar Teodoro da Silva and Geraldo Paulo Vieira, all *fazendeiros*, have not been apprehended, however, despite warrants issued for their arrest.⁹⁷

At times, the police will be the cause of violence when they attempt to evict settlers. Sometimes they are improperly accompanied in their eviction duties by landlords' *pistoleiros*. These evictions come mostly as the result of court orders which are usually issued without notice and without a hearing for the occupiers, thus depriving the evictees of the opportunity to present any claims they might have to remain on the land.

Evictions are sometimes resisted by settlers who stand guard with their hunting guns against incursions by the *fazendeiros'* *pistoleiros* and the police. Both sides have been injured and killed on occasion when there is an exchange of fire. But this is not a civil war; the settlers, *posseiros*, do not seek to do more than protect their territory and the police are not always aggressive when they encounter resistance, effectively ceding several occupied areas to the *posseiros*. In most cases, the police successfully rout the *posseiros* with no resistance, but the settlers often return to the area after a week or a month to reoccupy their shacks and continue the cultivation of the fields they planted.

A. Background

The northeast state of Maranhão is known as an area of huge estates with a large population of landless poor and chronic drought and agricultural crisis, giving rise to populist movements and enormous social dislocation.⁹⁸ During the 1950s, thousands of landless peasant families went west, following the pattern established by northeastern peasant settlers in the early twentieth century who were driven out by large estates taking over their land. They moved slowly west across Maranhão,⁹⁹ where the northeast gives way to the Amazon. When the government decided to set up a colonization project in this

⁹⁷ CPT, *Conflitos no Campo Brasil/89*, p. 62.

⁹⁸ Maranhão's total population numbers 5,131,389 people, with a density of 15.76 per square kilometer. This medium-sized Brazilian state has 328,663 square kilometers (126,897 square miles). IBGE, *Anuário Estatístico do Brasil*, 1989 supplement.

⁹⁹ Hundreds of thousands of families also migrated south to the big industrial centers. Bradford & Glock, *The Last Frontier*, p. 14.

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area for the landless, they found that about 50,000 people were already living there, mostly poor peasants who had independently settled in search of a living.¹⁰⁰ Americas Watch visited such an area of western Maranhão in Buriticupu, part of Amazônia Legal.¹⁰¹

The pressure on the land resulted in subdivision of small farms into ever more uneconomical units. The number of farms of less than 10 hectares in size tripled in the state from 1950 to 1960, and almost doubled again by 1985. The average size of these farms fell to 1.5 hectares, far too small to support a family.¹⁰² These tiny plots constituted 83.78 percent of the number of "farms" in Maranhão but occupied only 0.44 percent of the farmland in 1985. At the other end of the spectrum, the *latifúndios* larger than 1,000 hectares, some 0.43 percent of the farms, occupied 24.2 percent of the land.¹⁰³

Much of the area of western Maranhão was state-owned *terra devoluta*, undeveloped forest land. The landless settlers continued the historic process of creeping onto the state-owned land and onto the far edges of the uncultivated, privately-owned estates. At first, they did so individually, and then as part of an organized movement of landless settlers in the 1980s demanding that the government's agrarian reform program be made a reality.

The agrarian reform goal of former President José Sarney's government for his native state of Maranhão was to expropriate 3,560,000 hectares from 1985 to 1989. Ultimately, only 592,130 hectares were actually expropriated and of the 118,800 landless families that were to be settled, only 7,937 were settled during that period.¹⁰⁴ From 1985 to 1989 there were 109 land conflicts in Maranhão and only 26 agrarian reform projects in execution.¹⁰⁵

In 1988, there were 43 land conflicts in Maranhão involving 23,803 people.¹⁰⁶ Seven of the 93 assassinated nationwide in land conflicts during that year were killed in Maranhão. (See chapter III for table on "Annual Killings over Land Conflicts.")

¹⁰⁰ Ibid., p. 15.

¹⁰¹ In 1973, under the military government, agrarian reform was attempted in this region. Many landless were brought here to be settled on state-owned lands. One problem, however, was that the lands were far from water sources; the *fazendeiros* had already bought or occupied the best lands, close to the water. In addition, the beneficiaries of agrarian reform were not given any credits or other resources to help them get started, and lived in very primitive conditions. Many of them abandoned the settlements.

¹⁰² Bradford & Glock, *The Last Frontier*, p. 15.

¹⁰³ There are 15,311,124 hectares of farmland in Maranhão held in 533,906 farms. IBGE, *Anuário Estatístico do Brasil*, 1989.

¹⁰⁴ CPT, *Conflitos no Campo Brasil/89*, p. 57.

¹⁰⁵ Ibid., p. 60.

¹⁰⁶ These 43 conflicts involved 469,514 hectares. In these conflicts, there were 344 judicial orders of eviction, 595 expulsions and 291 threats of expulsions, 48 incidents of destruction of fields, five incidents of destruction of fences, and 46 incidents of destruction of houses. CPT, *Conflitos no Campo Brasil/88*, p. 24.

In 1989, there were 26 land conflicts in Maranhão, fewer than 1988, but involving almost the same number of persons: 20,971.¹⁰⁷ There were six assassinations (of the total of 56 nationally), 14 death threats, five assassination attempts and 33 victims of torture.¹⁰⁸

In the first six months of 1990, there were four persons (of a nationwide tally of 32) killed in land disputes in Maranhão, a rate above that of 1989. Americas Watch investigated three of these Maranhão deaths.

B. Land Conflicts in Western Maranhão

Americas Watch investigations were conducted in and around the town of Buriticupu, (population 24,813), which has grown up from almost nothing in the last 10 years and has the feel of a boom town. Indeed, the center of the town seems to be the large, 24-hour gas station on the dusty edge of the asphalt road from Santa Luzia (two hours northeast, population 113,137) to Imperatriz (four hours southwest, population 272,376). Urban planning is unknown on this frontier: the gas station partially obstructs the entrance to one of the main streets in town. The local authorities are the military police and civil police; the town does not have its own mayor or judge, but is under the jurisdiction of the Santa Luzia mayor and its judge, Francisco Florismar Almeida, a former policeman and the author of numerous eviction orders issued without hearings against land occupiers.¹⁰⁹ The court in Santa Luzia was just opened in 1984, and its territorial jurisdiction is the *comarca* of the municipality of Santa Luzia, which is about 100 kilometers in area. The court has subject-matter jurisdiction over civil, penal, labor, tax, and election law.

There are numerous lumber mills in this area; federal rules limit (but do not bar) cutting down the forest but enforcement of the limits is practically nonexistent. The *fazendeiros* here raise cattle, log, plant a variety of crops, or let the land lie fallow. The small farmers plant mandioca, rice and beans.

In the 1980s there were efforts at land occupation punctuated by violence along the highway from Santa Luzia to Imperatriz, with many eviction orders and some victories for the landless. Those who have been successful teach and lead others in the land occupations.

On November 21, 1982, at 7 a.m., the Santa Luzia president of STR, the rural workers union, Elias Zi Costa Lima (Zizi), was killed in front of dozens of witnesses as he was buying meat in the market in Santa Luzia. He had been involved with the land struggle in *fazenda* Floresta, which was one of the first land occupations in the area. His killers were never punished.¹¹⁰

¹⁰⁷ In 1989 there were 90 eviction orders, 350 expulsions, 63 incidents of destruction of houses, 132 attempts at expulsion, and 130 threats of expulsion. CPT, *Conflitos no Campo Brasil/89*, p. 40.

¹⁰⁸ *Ibid.*, p. 39.

¹⁰⁹ Judge Florismar, appointed in 1986, was interviewed on July 10, 1990, in Santa Luzia. He was a police delegate (and attorney) in a special unit for ten years in the state capital São Luis, and was then a prosecutor for another three and a half years before becoming a judge.

¹¹⁰ Amnesty International documented this case in *Brazil: Authorized Violence in Rural Areas (1988)*, p. 27. He had been elected president of the Santa Luzia rural workers union in 1980 but did not assume office until 1982 because of

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On September 17, 1984, at 7 p.m., the treasurer of the same union, Raimundo Alves da Silva (Nonatinho),¹¹¹ was killed while getting out of a bus in Santa Luzia. The assassin, who was not recognized, escaped. He was believed to belong to the group commanded by the man who claimed ownership of the *fazenda* Floresta, who at the time had a group of 14 *jagunços* (the local term for thugs or gunmen).¹¹²

In November 1985 the first organized occupation of lands occurred in the Buriticupu area, in *fazenda* Capoeira. It was believed to belong to "Chico Rico," Francisco Simeão, the Secretary of Industry for the state of Paraná. Before the occupation, on October 3, 1985, two workers individually occupying the land were killed and the wife of one seriously wounded, allegedly by *pistoleiros* for Chico Rico. In reaction to their deaths the *fazenda* was occupied. *Fazenda* Capoeira, 50,000 hectares, was later expropriated and presently over 1,000 families live there.

Many organized occupations were stopped for a time by the expulsion of the workers by the police; this was the case in *fazenda* União in the Buriticupu area in 1986. There, 50 police evicted 35 families with an order from Judge Florismar and then burned their houses. The 15,000 hectare *fazenda* was owned by a Pernambuco sugar lord who had left it uncultivated, according to the occupiers. Later occupation attempts were successful and 2,659 hectares of the *fazenda* were expropriated in 1988, with about 100 families living there.

The next organized occupation of lands took place on January 6, 1987, at a *fazenda* called Metro Kilometro 100. A few days after the occupation, the police entered with a judicial order of expulsion granted in favor of a landlord by Judge Florismar. (Workers claimed this was not private but state land.) The police set fire to the 70 shacks on the property and two children were burned to death inside. They were sleeping in separate houses when the police came and everyone scattered. Their mothers were at the river washing clothes. The police set fire to the houses so quickly after entering that by the time the mothers knew what was happening, it was too late for them to rescue their children. The police did not know that the children were inside, according to the workers.

All the houses, and their contents, were destroyed. The people were taken to a refugee center in town where nongovernmental organizations provided food; then, thirty days later, the workers returned to the site and rebuilt their houses. There has been no further violence, with the exception of one incident

harassment and death threats. He was a leader in the struggle in Floresta and was arrested in connection with that struggle in October 1980 and June 1981. The two brothers accused by witnesses in the killing of Zizi were briefly arrested. Their detention was ordered by the judge on February 21, 1983; the one brother who was arrested managed to escape, and the defense lawyer stalled the case by borrowing the file and failing to return it until January 14, 1987.

¹¹¹ Amnesty International, *Brazil: Authorized Violence in Rural Areas (1988)*, pp. 23-24, states that Raimundo Alves da Silva founded the rural workers union in Santa Luzia in 1971 and was its first president until 1974 when he was removed from office when the government intervened in the union. In February 1984 he was elected treasurer of that union again and was politically active in trying to have the Communist Party of Brazil (PCdoB) legalized and in supporting the successful candidacy of Tancredo Neves for president of Brazil in 1984. He had been threatened. The same men who killed Zizi in 1982 were suspected in this case but the police never interviewed them and the police inquiry was never completed.

¹¹² By 1988, most of this group, including the *fazendeiro*, had died violent deaths mostly due to internal fighting or had left town, according a rural union worker.

occurring soon after the reoccupation. About 45 families are said to occupy the 12,000 hectare *fazenda*.

Fazenda Terra Bella was first unsuccessfully occupied in July 1987. Deusdeth Araújo Gomes appeared here, as in *fazenda* União, as a *posseiro* leader, and led 40 families onto the *fazenda*. Then he switched sides and led 30 military police and *pistoleiros* onto the *fazenda*. They ejected the families and two workers were shot and injured.

The *posseiros* took a year to reorganize to return to Terra Bella after the betrayal of Deusdeth.¹¹³ In July 1988 they occupied the land and, apparently learning from the earlier police evictions in União, Metro Kilometro 100 and Terra Bella, defended their occupation with hunting guns, thus preventing the police from evicting them and burning their houses. Between four and six police and *pistoleiros* who tried to enter Terra Bella were killed and in retaliation the police put up a blockade of the *fazenda* to starve out the workers and their families. This lasted for a month in 1988 until, after a clamor by human rights organizations and others, the governor ordered that the siege be lifted.

Terra Bella, which has 11,546 hectares, was expropriated and is now settled by 390 families.

¹¹³ In 1988 at *fazenda* União, *pistoleiro* Deusdeth Araújo also caused problems: he built his house in the area, and he and others, allegedly acting under orders of a businessman, built a road to take out lumber, with the support of the local authorities. The *pistoleiros* threatened the workers and sold plots and promised titles to the land to those who would permit the logging there, according to the Sociedade Maranhense de Defesa dos Direitos Humanos.

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C. Murder Cases

Americas Watch investigated three of four cases of killings in land disputes in Maranhão in the first half of 1990. We present them here to illustrate the ways in which the land conflicts in Maranhão continue to result in violent deaths for which impunity is the rule.

1. Raimundo João Sabino: targeted assassination of leader identified as "invader" of fazenda Matary in police report

Raimundo João Sabino, 65, was killed in Gleba Faísa, Povoado Arapari, Arama town, Santa Luzia municipality, Maranhão, on February 8, 1990. He was shot twice in the head by an unknown stranger who called himself Antônio Gado (surely not his real name), who arrived on the evening of February 7, 1990, at Sabino's home. "Antônio" asked and was permitted to stay the night. The following day, Sabino and the stranger went to Sabino's field, accompanied part of the way by a settler and his son, who were walking to their adjacent field. The settler heard two shots shortly thereafter and found Sabino dying, with two shots in his head, unable to speak. The stranger was never seen again. The killing alarmed residents, for it was the first time that someone had been perfidiously assassinated in this area.

Sabino, a rural workers union officer and activist, had been threatened numerous times because of his union activities. His friends are convinced that the only reason for his death was his participation in the struggle for land. The crime remains uninvestigated and unpunished by the police, who considered him an enemy. Shortly before his death, a police report identified João Sabino as a "professional invader" residing in the town of Arapari.¹¹⁴ They credited him with leading the invasion of *fazenda* Maraty, not too far from Arapari, in August 1989, six months before his assassination.¹¹⁵ The police report stated:

According to depositions given by the [later] arrested invaders, the [Matary] invasion was organized and commanded by "João Sabino," of the town of Arapary-Santa Luzia/MA, who, accompanied by a member of the Rural Workers union and 20 other men armed with 20 gauge shotguns, launched the invasion

Having installed the invaders in fazenda Matary, João Sabino withdrew.¹¹⁶

In a case where the victim was considered an "agitator" by the police, they should have made

¹¹⁴ Military police report of the operation to restore possession of *fazenda* Matary (undated but around September 1989) by Major João Domingos Coêlho, military police, general commander Maranhão, ("Matary Police Report Report"). When human rights groups and state deputies complained of police brutality in the eviction of Matary squatters, this report was apparently forwarded to them in reply.

¹¹⁵ Police report on their operations pursuant to eviction order of *fazenda* CIKEL nearby, dated September 22, 1989 included in the Matary Military Police Report; this cites police information gathered in other operations and interrogations.

¹¹⁶ The police report also accused 13 Catholic nuns and priests in the area of fomenting and encouraging land occupations. It names other workers as leaders in the struggle for land, but none were singled out in such detail in the report as Sabino.

every effort to conduct a vigorous investigation into his murder, if only to preserve their appearance of propriety. The police, however, showed no interest in the assassination.

Fazenda Matary, according to the workers, is 35,000 hectares, only 15,000 hectares of which had been exploited by a Pernambuco-based owner, for pasture for 1,000 head of cattle. It was occupied on August 14, 1989 by about 20-50 families from the Buriticupu region, most of whom had been working in the area known as Brejo do Parionai, according to interviews with some of those who participated. Sabino acted as a leader of the men, who usually occupy the land first. Then, if there are no problems, they are joined by their families.

About four military police and four *pistoleiros* (two of whom were recognized by the occupiers) arrived at the place where the occupiers were encamped. The police were led by a sergeant from Pindaré, who recognized Sabino. The police questioned the workers but departed upon seeing how many workers were there. They were engaged in clearing about eight *alqueires* (4.84 hectares each) and putting up three large shacks in which to live.

After the police reconnaissance, on August 22, 1989, Agro Industrial Matary SA commenced a court action against the occupiers. The next day, Judge Florismar, acting with dispatch, issued an order recognizing the right of this owner of record to occupy the property (the right to occupy is distinct from title or ownership). According to the court files, he ordered a justice official to go to Matary and tell the named defendant and his companions to retire from the area, and to notify them of the pending suit, citing as evidence of the possession of the plaintiff the certificate of ownership and as evidence of the occupation by the defendants a photo of a warning sign put up by the occupiers.

A court official certified the necessity of using police force to comply with the order, and police force was ordered by the judge on August 23, and concurred in by the prosecutor on August 24, 1989.

The military police received their orders on August 29, 1989. According to the police report, they reconnoitred the area and decided that 81 military police (more than enough in our estimation) were necessary for three days to "protect" the judicial official who was to give effect to the order. Troops were brought in from the state capital.

An Operation Plan was drawn up by the military police, which lists the "adverse forces" as including "religious incendiaries of the movement who stimulate invasions of rural properties."

The police report is silent on what, if anything, the judicial official did. There appears to have been no attempt by the judicial employee to read any order to the defendants, nor to hear their possible claims and defenses to the eviction order. Under Brazilian law, the judicial officer should advise the judge that the order has not been complied with before any further police action is taken. This step was skipped here. The 80 police easily overran the surprised occupiers when the police advanced, as per military plan, on the site in August 1989. They reported finding a series of trenches constructed by the "invaders" but in only one trench, where they encountered four persons shortly after entering, did anyone shoot at them. The police were not injured and easily detained the two who shot at them and two others who did not.

At 8:30 a.m. they entered the camp where they detained more people, captured various shotguns, and destroyed the camp. Several people working nearby fled. The police told the workers in the field to stop work or they would die, according to the workers. Those who were in the shacks were handcuffed, beaten and tortured, according to worker testimonies. The military police forced them to lie down on the

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hot ground several times, and to eat dry leaves, raw rice in its shell, dirt, tobacco, and hair. Various workers had their hair cut with a farming knife and one, Waldemir, 18, had his scalp cut as well, requiring 10 stitches to close it in the Pindaré Hospital.

The shack sheltering 50 families was totally destroyed, with the canvas cut. Hammocks, kitchen utensils, food, personal possessions, money, and other domestic items were destroyed or taken by the police, according to the workers.

After this vandalism, the same police contingent entered the adjacent Brejo do Parionai colonization area, where all 36 families had title to the property but were nevertheless victims of police violence. The houses of three families were invaded and their kitchen utensils destroyed, their food production sacked, personal goods robbed and women beaten. Children were threatened in order to get information from them about the whereabouts of their fathers, especially Francisco Pereira, the named defendant in the suit, whom the police did not locate. (The police report simply stated that they found 24 workers near Brejo do Parionai clearing land, arrested three, and the rest fled.) At 11:30 a.m. the police arrived at the last "trenches" and there surprised and detained nine men. At 4 p.m. they took the 19 detained, accused of possession of 21 firearms (19 of them shotguns used by settlers), to the police station in Buriticupu.

On September 12, 1989, three papers in the state capital carried denunciations of the violence. They noted that the workers were deprived of food in jail for a week. A human rights group, Sociedade Maranhense de Defesa dos Direitos Humanos (SMDDH), announced its intention to proceed against the commander of the operation, administratively and judicially, and to ask INCRA to expropriate the area.¹¹⁷ The workers were released after an attorney intervened on their behalf.¹¹⁸

It is clear from the police report that the captured (and tortured) men named João Sabino, who was not arrested, as a leader of the Matary occupation. He was assassinated five months later.

Sabino was the first small farmer to settle in the area, and those who came after considered him the "father" of the Arapari settlement. Arapari is now a town of 236 families, but when Sabino arrived in 1972, this state-owned land had no people and no houses.

After Sabino and 20 families cleared the area in 1972, a *fazendeiro* decided to move in, according to those interviewed. The families were forced out in 1973 but the *fazendeiro* was to indemnify them for their improvements to the land. When they were not paid after a month, the families returned and continued cultivation.

In 1984, Sabino was elected delegate to the rural workers' union. After the killings of three unionists in 1985, the targeted killings in this immediate area stopped until 1990, when Sabino was assassinated. No investigation into this murder had been conducted as of the time of the Americas Watch visit in June 1990, over four months later; by then the trail was cold.

¹¹⁷ "Lavadores denunciam violência," *O Estado do Maranhão*, September 12, 1989.

¹¹⁸ "Lavadores denunciam violência da polícia," *O Imparcial*, September 12, 1989; see "Lavadores são obrigados a comer terra," *Jornal Pequeno*, São Luis, September 12, 1989.

2. Valter Baiema Silva (Piauí): police and posseiro die but no investigation of killing of posseiro at fazenda Miril

This case illustrates how civil proceedings manipulated in favor of the landlord cannot serve the interests of order and justice. Here the deaths resulting from a confrontation between the police and *posseiros* could have been avoided if the authorities had not insisted on bringing police to enforce a final judgment that totally lacked due process.

Valter Baiema Silva (Piauí), a *posseiro*, and a police sergeant were killed only a few days before the assassination of Sabino. They died as a result of violence following a police incursion on February 3, 1990 onto *fazenda* Sapucaia. The *fazenda*, also known as Miril, is on the banks of the Pindaré river in the municipality of Bom Jardim, Maranhão, a few hours from the location where Sabino was killed; it had been occupied for several months, and in some cases years, by landless rural workers and their families.

Approaching the *fazenda*, the 28 uniformed police first captured *posseiro* Piauí, who apparently was in the wrong place at the wrong time, and harshly interrogated him about the whereabouts of the other workers. He insisted he knew nothing.

The police got into a small boat to cross the river and handcuffed Piauí by the left wrist to the boat. It was about 6:30 p.m. and fairly dark. According to Piauí's dying declaration heard by a fellow *posseiro* later interviewed by Americas Watch, one policeman shot and wounded him in the side while he was in the boat and before any other shooting started. The other *posseiros*, as it happened, had learned that the police were arriving in force and were waiting on the other side of the Pindaré River, hidden in thick forest.

The police reportedly yelled and fired their weapons in the direction of the workers (they may have suspected where they were), then shoved the boat off from the bank. The workers shot at the boat, killing one military policeman, a sergeant. The boat tipped and all but Piauí, who was still handcuffed to the boat, were dumped into the river. The police effort to occupy *fazenda* Miril was abandoned.

According to the Secretary of Public Security of Maranhão, a policemen and a rural worker were killed in a confrontation between military police and occupiers, and when the troops crossed a river to get to the place where the *posseiros* were, they were attacked by tens of shots from the forest.¹¹⁹ The official report in the court record, however, never mentioned the police shooting of a captured man.

The boat floated down the river several hundred meters until another *posseiro* saw it and heard Piauí's cries for help. He called to a man (the one later interviewed by Americas Watch), who waded out and caught the boat. Piauí, whom he knew personally, was still alive, although covered almost to his face in water. The *posseiro* tried to remove the handcuffs to take the wounded man for help, but could not. Piauí told his rescuer of his capture, interrogation, handcuffing to the boat, and subsequent shooting, but lived only another 10 minutes.

Piauí's body stayed in the boat all night on the shore and in the morning the residents succeeded in removing the handcuffs. The body was photographed still handcuffed to the boat, and later laid out on the shore; the settler's attorney showed the photographs to Americas Watch.

¹¹⁹ "Conflito de terras faz vítimas fatais no MA," *O Estado de São Paulo*, February 10, 1990.

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Despite publicity in the press about the death of the *posseiro*, there is no record in the Santa Luzia court of his death. When Americas Watch asked Judge Florismar about any criminal investigation into the killing, he consulted his court records and the litigation record in the civil case in which he had issued the eviction order. There was no information in the file or in the police report in the file (from which he read) that any *posseiro* had been killed.

To avert further violence, the attorneys for the *posseiros* sought from the state Supreme Court a stay of the judicial order of eviction, which another judge was threatening to enforce with federal police. In their petition they pointed to several due process errors committed by the lower courts. If they are right, then the eviction order should not have been issued nor the police been ordered to the property, and the *posseiro* and policeman might be alive today.

The action had been pending for some time. On April 3, 1987, João Batista dos Santos, claiming ownership of the area, commenced the action for the land alleging his possession had been disturbed by those occupying it.¹²⁰ The action was against Deusdeth Araújo Gomes and "others." As described above, Deusdeth was a *posseiro* who became a *pistoleiro* for the landlords in 1988.

The judge of Santa Inés, Luiz Gonzaga de Almeida, on May 5, 1987 issued a preliminary order without any hearing or notice to the defendants. The order was issued on the basis of documentary proof (certificate of ownership) alone. In the order, the judge required that the defendants be notified of the existence of the case. The occupiers were partially dispersed by the police.

On March 30, 1989, almost two years later, the owner, alleging an invasion by the "others," without naming any new defendants or changing the existing defendants, asked the Bom Jardim judge to preserve his right to possession of the property, and the judge so ordered, asking for police assistance.

On June 5, 1989, in a military police operation commanded by Sergeant França,¹²¹ the occupiers were evicted and the police burned about 60 shacks. All domestic belongings, 65 hunting rifles, and some flashlights were robbed and placed in a truck. Three workers were arrested.¹²² The police noted down the names of all of the "invaders," as they refer to the settlers. After a while, the settlers returned to the area to tend to their fields.

¹²⁰ According to attorneys for the *posseiros*, the property was purchased from the state of Maranhão in 1985 by a firm called Mecânica Industrial Rodoviária de Imperatriz Ltda., from whence the property was known as Miril. The purchase was of the 1,571 hectare *fazenda* Sapucaia. The attorneys alleged this sale was improper, because these were lands reverted to the state, *terras devolutas*; one press account suggested that the state land agency sold the property to Miril at the request of an ex-governor. ("Polícia Federal poderá ser acionada contra lavradores," *O Imparcial*, March 22, 1990.) The attorneys also alleged that the owners were fraudulently claiming not only the original purchase of 1,571 hectares but a much larger property of 17,500 hectares, all of it state land.

¹²¹ After this action and before February 1990, Sergeant França assassinated a worker in Ipase and became a fugitive, according to the press. "2 mortos e 25 feridos," *Jornal Hoje*, February 6, 1990; "PM e trabalhador rural são mortos durante conflito," *O Estado do Maranhão*, February 6, 1990.

¹²² "Ordem de despejo ameaça posseiros de Bom Jardim," *Jornal Pequeno*, January 13, 1990; *Jornal Hoje*, February 6, 1990; "PM e trabalhador rural são mortos durante conflito," *O Estado do Maranhão*, February 6, 1990.

On October 10, 1989, Judge Florismar de Almeida of Santa Luzia issued a final judgment in favor of the owner without holding a hearing, because the only named defendant, Deusdeth Araújo, had defaulted. He was in jail at the time. Deusdeth, as indicated above, had become a *pistoleiro*, and in July 1989 was jailed for killing a fellow *pistoleiro*.

In January 1990, the settlers refused to sign a declaration presented to them by the *fazenda* manager which would recognize the owners' possession of the land. They realized that someone would imminently try to evict them. In February the police were ordered in by Judge Florismar to accompany a court official to advise the occupiers of the final judgment in favor of the owner, with the results described above.

On March 7 the judge of Bom Jardim notified the military police to complete the judicial order by evicting the occupiers; since the police were reluctant to reenter, she said that if they did not act by March 22, federal police would be requested.¹²³ The state Supreme Court stayed the execution of this order at the request of the attorneys for the *posseiros*.¹²⁴

The *posseiros'* attorneys, first appearing in the case after the February 1990 violence, pointed out that the real parties in interest were not named defendants and that the judgment therefore could not apply to them. They argued that it was a violation of Brazilian civil procedure to issue an order and then a final judgment against persons identified only as "others," since Brazilian law requires that all defendants be named.

When we asked Judge Florismar about this procedural issue, he looked in the file and found lists of names of the occupiers compiled by the police when they removed them in 1989 from the site. He admitted that these persons were not named as defendants, and said that it was not possible to add additional defendants once the case had commenced. Nor were the identified occupants of the land notified beforehand of the final judgment before the police came in, he said.

The theory of the judge and the owner was that Deusdeth Araújo was the leader of the band and could inform the others about the action, even from his jail cell. Since the judge, as he admitted, was aware that Deusdeth had been jailed at the time of the judgment, the attorneys for the *posseiros* further alleged that the judge violated the civil procedural code by not notifying him in jail of the action.

The theory that Deusdeth Araújo was the leader who would advise the occupiers of the land was seriously erroneous as a matter of fact, however. It certainly appears that the owner of *fazenda* Miril maintained that the notorious Deusdeth was a defendant knowing that he would default, and that the judge knew or should have known of Deusdeth's notorious reputation as a *pistoleiro* for the owners.

The *posseiros'* attorneys further argued that the judgment was issued on the basis of insufficient proof, based only on title to property, without a hearing. The legal issue was not title to the property but the

¹²³ "CPT prevê massagre de lavradores em B. Jardim," "Processo de despejo é irregular," *Jornal O Imparcial*, March 14, 1990; "Federal pode intervir para evitar conflitos," *O Estado do Maranhão*, March 13, 1990; "Pastoral pede desapropriação em Bom Jardim," *O Estado do Maranhão*, March 14, 1990.

¹²⁴ "Entidades temem um novo conflito em Bom Jardim," *O Estado do Maranhão*, March 28, 1990.

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right to occupy it, two distinct issues in Brazilian law. Attorneys for the *posseiros*, moreover, believed that much of the *fazenda* was owned by the state, not the plaintiff.

They also alleged that the only improvements to the land were constructed by the *posseiros*, and that some 300 *posseiro* families had lived and worked since 1982 in this land on the edge of the Rio Pindaré, giving the *posseiros* a colorable claim as to which there should have been the opportunity for further evidence at a hearing, should it be found that the plaintiff did indeed have title.¹²⁵

While the state Supreme Court is reviewing the case, the *posseiros* remain uneasily cultivating their crops on the land. The *posseiro* who died, Piauí, is buried not far from the river, his murder still ignored by officialdom.

3. Aldionor Cardoso da Silva: assassination of rural leader goes uninvestigated

Aldionor Cardoso da Silva (Agenor), who led the May 1987 *posseiro* occupation of Presa de Porco, Santa Luzia, Maranhão, was assassinated there by an unknown *pistoleiro* on June 1, 1990. The occupation of Presa de Porco, by 40 landless settlers, encountered no resistance or violence; the land was owned by the state and had not been cleared or claimed by any *fazendeiro*. The 20,000 hectare Presa de Porco area is now in the process of being surveyed for expropriation by, the state agrarian reform agency working in conjunction with the federal agrarian reform agency, INCRA.

Residents of Presa de Porco remember Agenor as a "fighter for the people," that he was well liked, and left a wife and a child. A health worker added one detail the others charitably left out about the dead man, illustrative of health conditions in northeastern Brazil: he had leprosy and had lost his fingers. Agenor formed and led the União de Moradores (dwellers union), created because the local rural workers union was unresponsive to the *posseiros*.

Agenor was in the forefront in two recent community struggles. On February 17, 1990, he and other *posseiros* called a meeting of rural workers' union members which resulted in the deposition of the union representative; the workers entered the union office and removed the union documents and named a new union delegate. The deposed delegate, still bearing a grudge against Agenor, left town. In May 1990, Agenor and other *posseiros* conducted a successful *empate* or action to prevent a logging company from cutting and removing the trees from land claimed by the *posseiros*. Agenor was then threatened by the would-be loggers.

After dark on June 1, 1990, Agenor and a companion were walking through the Presa de Porco settlement. As they passed alongside an unoccupied house, an unknown man ran up from behind them, shoved the companion away and shot Agenor in the back. According to witnesses, the bleeding Agenor ran into a house some 10 meters away, but not before the assassin shot him in the back of the right leg before fleeing into the night.

The woman of the house and her two sons watched in horror as Agenor, who lived just across the soccer field, burst into the room, rasping. He fell inside the back room. One boy held a candle near him and

¹²⁵ Under Brazilian law, if a settler is on the land unchallenged for a year and a day, he has the right to a hearing before the owner can evict him, and compensation for improvements to the land. A settler cannot acquire rights in public land or *terra devoluta*, however.

called his name but he did not answer; he died almost immediately without saying a word, they told Americas Watch.

The police never enter this general area, according to officials and residents. After other *posseiros* resisted earlier police efforts to dislodge them, they stopped coming. Although the police never tried to dispossess the settlers in Presa de Porco, the residents do not trust them because of what they have done to other *posseiro* communities. Neighbors went to inform the police in Santa Luzia of the killing, however, because the family needed a death certificate. The police promised to investigate the crime and to send a team in to survey the crime scene, but no one ever arrived. They did, according to the witnesses, summon some of the residents to Santa Luzia to give testimony about the case, but not until about eight days after the killing. The witnesses were unable to identify the assailant.

Nothing further was heard from the police on the case, and there was no record in the Santa Luzia court of any police investigation, although the police are required to inform the court of any such investigation 30 days after the crime is committed, according to the judge.

The original plan of INCRA and the state agrarian reform agency was to give each family at Presa de Porco 50 hectares. This will now be difficult to do because Presa de Porco has experienced a population explosion; this peacefully-settled area is located on a cheap passenger railroad¹²⁶ that runs from São Luis, the capital of Maranhão on the Atlantic Ocean, to the inland iron ore and power complex at Carajás in Pará. The new town registered 2,500 voters in the 1989 election, quite a jump from the original 40 settlers in 1987.

Yet the one credited with the creation of this community has been assassinated and his murder remains uninvestigated and unpunished.

¹²⁶ At the time of the Americas Watch visit in mid-1990, the passenger fare for the several hours' ride from São Luiz to Santa Luzia was about Cr\$200, or U.S. \$0.23.

VI. Pará

In April 1990, four men associated with the rural union workers' struggle for land in Rio Maria, Pará, were murdered in two separate incidents. A police investigation directed from the state capital of Belém has resulted in some investigative work being done and the arrests of a few suspects. It has also triggered the reopening of the 1985 murder of the union leader and father of two of the recent victims.

These investigations demonstrate what the police are capable of doing if they make the rare effort. Unfortunately, the investigations came too late. The failure to investigate the first two murders on April 3 serves as a striking illustration of how impunity encourages further murders, because the same murderers, feeling no pressure from the police, committed the next two murders a few weeks later on April 22.

It was the local Rio Maria police chief (*delegado*) Pedro Vieira (belatedly dismissed) who failed to investigate the murders of the first two victims, a Communist Party member and his assistant. This was totally consistent with his past practice. The next victims were kidnapped by the same group of murderers in the same car only a few weeks later. Vieira then neglected to notify the police at roadblocks of the kidnapping, although he promised their family the night of the kidnapping that he would do so. This police chief had participated in arrests of the victims in prior years. For years, despite repeated complaints to state and federal authorities, those implicated in similar murders had enjoyed total impunity under his jurisdiction; even well-known cases nationally and internationally exposed for several years by Amnesty International received no attention.¹²⁷ His superiors were well aware of his track record long before these 1990 murders were fully investigated.

The two recent cases are still far from trial. Arrest is only a first step, and is not always followed by a second step.

A. Land Conflicts in Pará

Pará, the second largest state in Brazil, sits astride the equator at the mouth of the Amazon. Sparsely populated, with 3.89 people per square kilometer (10.23 per square mile), it encompasses a total of 1.2 million square kilometers (474,000 square miles). Almost one fourth of its 4.8 million inhabitants live in the state capital, Belém.

Pará's fertile southeast corner, where the recent assassinations occurred, was first settled by peasant families from Maranhão crossing the Araguaia river which marks its border with the state now called Tocantins.

In 1970, the government's plan to settle the northeastern poor in Pará called for placing 100,000

¹²⁷ In its lengthy 1988 report on rural violence, Amnesty International highlighted six cases in this area of Pará involving 14 deaths from 1982 to 1987. All languished on the vine until the 1990 killings led to clues about one 1985 killing.

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families along the Transamazon Highway in 100 hectare plots. But land alone was not enough and the settlers needed money or credit for fertilizers, insecticides and machinery, which they did not receive. Only 5,000 to 6,000 families were settled by 1977. The colonization projects were not considered a success because the soil was not fertile and the families moved out.¹²⁸

The cattle boom, stimulated by tax rebates to large ranchers during this period, took off in the largely uninhabited land to the west of the Araguaia river in the states of Pará and Mato Grosso. Four municipalities in these two states received about half the tax rebates given by the federal agency, although they comprised only four percent of the development area called *Amazônia Legal*.¹²⁹ The roads built as part of the military's plan for the area—to assist ranchers to preemptively occupy the land and give them access to market for their cattle—also permitted the influx of land-hungry settlers, apart from the colonization project, and Pará's population more than doubled from 1960 to 1980, from 1.5 million to 3.4 million people.¹³⁰

The area in northern Goiás called Bico do Papagaio (between the Araguaia and Tocantins rivers, which is now in the state of Tocantins), immediately east of southern Pará, was similarly inhabited by some 20,000 peasant settlers who were violently evicted by landowners and land thieves as the area appreciated in value. In 1975 and 1976, the CPT registered the eviction of over 400 families there.¹³¹ It was in this area, around Xambioá on the east bank of the Araguaia river, that a small guerrilla band started and was conclusively put down by the army a few years before, in the late 1960s.¹³²

Pará continues to be the scene of intense conflicts over land as the *posseiros* attempt to hold on to their land claims and *pistoleiros* in the hire of estate owners attempt to evict them. In addition, forced labor was used to solve the labor shortage problems facing the large *fazendas* which wished to demonstrate that the land was being "used" by clearing it for pasture.

In 1989, the year of the presidential election, assassinations of workers and activists in land conflicts in Pará declined to 10 from the 17 reported in 1988. They rose after the presidential elections, reaching eight in the first six months of 1990 (annualized 16)—and all but one took place after the inauguration of President Collor.¹³³

Assassinations are only the tip of the iceberg when tabulating the violence from land conflicts in Brazil. In 1989, for instance, there were nine death threats, and 66 land conflicts involving 2,060 families and 923,833 hectares, in which 34 houses and 35 fields were destroyed, and 37 incidents of robbery carried out in connection with the conflicts. There were 62 court eviction orders and 152 expulsions

¹²⁸ Blakemore & Smith, eds., *Latin America, Geographical Perspectives*, p. 367.

¹²⁹ Bradford & Glock, *The Last Frontier*, pp. 45-47.

¹³⁰ *Ibid.*, p. 26.

¹³¹ *Ibid.*, p. 125.

¹³² *Ibid.*, p. 155.

¹³³ CPT, interim six-month statistics.

carried out and 123 threatened expulsions.

Agrarian reform performance lagged in Pará: although there were 158 land conflicts from 1987 to 1989, there were only 33 agrarian reform projects executed for the four years from 1985 to 1989.¹³⁴ From 1985 to 1989, some 5,420,000 hectares were measured for expropriation, but only 1,116,014 hectares were actually expropriated, and of 75,200 families to be settled, only 4,233 actually were.¹³⁵

Americas Watch visited an area of southern Pará, from Conceição do Araguaia to Redenção to Rio Maria and Xinguara. The municipalities of Redenção, Rio Maria, and Xinguara were created only in 1982; their populations boomed. In 1986, a road was built which opened up the area from Redenção (now 70,000 people) south and north from Rio Maria (15,000) to Xinguara (40,000),¹³⁶ some outstripping in size the older town of Conceição do Araguaia (40-45,000), located on the Araguaia river.

This boom area has grown in part because of the opening of the road, and in part because of gold-panning activities (*garimpo*), which also pollute the rivers with mercury used in processing gold ore, and lumber mills, which contribute to the deforestation of the Amazon, despite government limits on logging. Several hours to the north is the vast government-sponsored Carajás mining complex, estimated to hold one of the largest reserves of iron ore in the world.

This is an area in which many settlers have looked for and found the chance to occupy and farm land, claiming it for their own. Sometimes they have, through organized efforts beginning in the late 1970s, succeeded in winning title to the land after government expropriations. Not all the battles have been successful, and the landowners have fought back through the employment of *pistoleiros* to scare and violently push settlers off the land, sometimes with judicial orders of eviction, often without.

Indeed, the violence against rural activists registered in the state of Pará is concentrated in the southern part of the state: of the 17 murders in 1988, nine were in southern Pará; of the 10 in 1989, seven were here; and six of the seven killings in the first half of 1990 were also in southern Pará.

This has been the case for a long time. The CPT regional office in Conceição do Araguaia registered from 1982 to 1989 a total of 774 death threats, 834 rural workers arrested or detained, 558 rural workers injured or beaten, 2,514 *posseiro* families expelled, 704 farms burned or destroyed, and 2,735 workers kept in conditions of slavery in the diocese of Conceição do Araguaia.

Courts in Rio Maria, Redenção and Xinguara were created in 1989, and their cases shifted from the court at Conceição do Araguaia, several hours away over a bad road. But the courts, old as well as new, have not done justice in the cases of violence to rural workers and their allies.

B. Recent Cases

¹³⁴ CPT, *Conflitos no Campo Brasil/89*.

¹³⁵ *Ibid.*

¹³⁶ In 1976, Xinguara did not exist, according to researchers visiting the place and finding a tiny unnamed hamlet of about three or four houses. Bradford & Glock, *The Last Frontier*, p. 169.

1. Bras Antônio de Oliveira and Ronan Rafael Ventura: failure to investigate

This case of a targeted assassination of an active supporter of the land struggle went practically uninvestigated until another killing a few weeks later by the same assailants sparked a probe.

Bras Antônio de Oliveira and Ronan Rafael Ventura were killed on April 3, 1990, near Rio Maria, Pará. De Oliveira, a mechanic, was a member of the Communist Party of Brasil (PCdoB) and a candidate on that ticket for city councilman (*vereador*) in 1988 in Rio Maria. He was publicly sympathetic to the rural workers' union and backed the land occupations occurring in this area. He and others were arrested for 30 days in 1987 in connection with the occupation by the landless of nearby *fazenda* Canaã,¹³⁷ and had been supportive of the more recent occupation of *fazenda* Suaçui.

On April 3 at 7:30 p.m. de Oliveira was at home, in the back of his mechanic's shop, when a man asked him to repair his stalled car 20 kilometers outside of town. De Oliveira said he had no way to get there. The man then conferred with his associate, standing a short distance away, and they provided a car, a grey "Gol" (Volkswagen Golf).

De Oliveira called for his helper Ronan Rafael Ventura to go with him. De Oliveira put on a shirt and hid a revolver in his belt, which he got from the guard who watches the shop at night. Ventura put de Oliveira's tools in the trunk of the grey Gol.

The next morning their bodies were found in the middle of the road on the way to nearby Babaçu *garimpo* area.¹³⁸ The helper was shot in the mouth and de Oliveira was shot in the chest, the cheek and near the eye; he left a wife and four children, from two and a half to 18 years of age. His revolver and tools were not found.

Several days went by before Rio Maria police chief Pedro Vieira came to the de Oliveira house to inquire in a perfunctory manner about the crime. Crucial police work, such as getting a police sketch from the neighbors who gave directions to the abductors to the de Oliveira house, was left undone.¹³⁹ The police chief who replaced Pedro Vieira told Americas Wa the initial investigation had to be entirely redone because it was not useful.¹⁴⁰

2. José and Paulo Canuto¹⁴¹

¹³⁷ "Executaram membro do PCdoB," *A Província do Pará*, Belém, Para, April 5, 1990. In 1987 they were accused of supplying economic aid, including money for arms and ammunition, to the occupiers, which they denied. They were released.

¹³⁸ *Ibid.* A press report said that the assailants fled to Redenção, where they left a note in the door of Mayor Luiz Vargas' office, telling him to advise the mayor of Rio Maria of the location of the bodies.

¹³⁹ Witness interviews, Rio Maria, June 1990.

¹⁴⁰ Interview with police chief Eleovaldo de Jesus Miranda de Souza, Rio Maria, Pará, June 23, 1990.

¹⁴¹ The full name for the Canuto family is Canuto de Oliveira, but as there is no relation to Bras Antônio de Oliveira and to refer to them both by this name might cause confusion, we will only refer to the three brothers and their father by the Canuto name.

The deaths of José Canuto, 27, a gold panner, and Paulo Canuto, 19, a stonemason, might well have been avoided had the police taken an interest in investigating the Bras Antônio de Oliveira case, and if they had acted promptly to intercept the abductors when the kidnapping was reported. Their deaths might even have been avoided had any serious investigation been done into the assassination of their union leader father in 1985.

On April 22, 1990, less than three weeks after the deaths of de Oliveira and his helper, three Canuto brothers were kidnapped from their home in Rio Maria, Pará. José and Paulo were killed a half hour from their home and the third brother, Orlando Canuto, 25, was wounded but managed to escape the four uniformed captors who claimed they were federal police.

João Canuto, the victims' father, was the president of the local rural workers' union, a candidate for mayor in Rio Maria in 1982, and shortly before his death he became a member of the PCdoB. He was gunned down on December 18, 1985, after receiving repeated death threats and fruitlessly asking the federal and state authorities for protection—much as Chico Mendes did three years later on the other side of the Amazon.

Days before Canuto's death, five armed men showed up outside the rural workers union office in a car belonging to the *fazenda* Canaã, then occupied by landless peasants, members of the union. The armed men said they came to kill the union president, João Canuto, and its lawyer. No investigation was conducted nor was protection provided by police chief Pedro Vieira. Canuto was killed four days later by two gunmen who shot him 14 times.

Two gunmen and a landowner were initially arrested in 1985. When the landowner was released on *habeas corpus*, the judge released the two gunmen. There was *prima facie* evidence that senior officials from local municipalities had been involved in the killing, the judge told Amnesty International; shortly thereafter the judge was transferred. One of the gunmen was rearrested in September 1987 and implicated the landowner.¹⁴² But the case was hopelessly stalled at the time João Canuto's sons were kidnapped and killed in April 1990.

It is believed that Orlando Canuto was the target of the 1990 attack, since his two brothers, who lived in the same house, were not activists. Orlando Canuto was following in his father's political footsteps: he joined the PCdoB after his father's death and was its municipal director. He was treasurer of the rural workers' union as well. He and his brother-in-law, Carlos Cabral Pereira (also a union officer), were accused in the May 1989 death of a 70-year-old cook on the *fazenda* Suaçui, the site of an occupation. They were arrested in July 1989 but released after 20 hours in jail because the detention was illegal, according to a judicial authority.

At 8:30 p.m. on the night of April 22, 1990, a grey Gol, probably the same one used in the killing of de Oliveira a few weeks earlier, came to the Canuto house in Rio Maria. Four armed men wearing federal police jackets said they had a warrant for the arrest of the three Canuto brothers, and handcuffed them. They were driven off in the car, heading north toward Xinguara.

The family members who witnessed the capture went immediately to the local police station and reported what had happened; the family did not believe the captors were federal police. The police chief

¹⁴² Amnesty International, *Brazil: Authorized Violence in Rural Areas (1988)*, pp. 37-38.

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Pedro Vieira promised to notify the police at roadblocks in the northerly direction so that the car could be intercepted. He did not.

At 9 p.m. the family sought help from the parish priest and CPT representative, Father Ricardo Rezende Figueira. They went to the judge's house but could not find him, and then tracked down the prosecutor at 11 p.m. She called police chief Vieira and learned that he had not notified the police at the roadblocks.

The surviving brother, Orlando, later testified that as the three were driven north, the captors, still posing as federal police, asked about Bras Antônio de Oliveira, the PCdoB member killed on April 3, 1990; the captors said the federal police had killed him. They asked if the three brothers had occupied *fazenda* Suaçui, and beat them when they denied it. They also asked about the July 1989 arrest of Orlando Canuto and Carlos Cabral in connection with the death of a cook at that *fazenda*.¹⁴³ (See below.)

About 200 meters from the main road at the entrance to *fazenda* Rio Vermelho the captors made the three victims get out of the car, and started to hit them in the face. They shot and killed José and Paulo, who were handcuffed together. Orlando ran and was shot in the right arm with the bullet grazing his right side, but evaded his captors, crossing into an abandoned pasture.

¹⁴³ "Ataque contra sindicalista rural deixa dois mortos no sul do PA," *Folha de São Paulo*, April 24, 1990.

3. Investigation of the Canuto and de Oliveira cases

On April 23, 1990, a commission of leftist state assembly deputies, among them Newton Miranda of the PCdoB, prevailed upon Governor Hélio Gueiros to send a plane to take the surviving Orlando Canuto to Belém for medical treatment and for his protection. The secretary of Public Security, Mário Malato, as a result of the political uproar, sent a delegation to investigate the killings.¹⁴⁴ Malato initially claimed that the Canuto killing was an act of vengeance by the family of a *posseiro* who the Canutos were alleged to have killed.¹⁴⁵ Many disputed this because the *posseiro's* family was poor and did not have handcuffs, uniforms, a car, and automatic weapons. Malato later backed down and the investigation showed his version to be false.

A special civil police chief from Belém, Éder Mauro, was appointed to investigate 1) the Canuto case; 2) the Bras Antônio de Oliveira case; and 3) a separate case involving decomposed bodies allegedly eaten by pigs in *fazenda* Santa Helena or Jandaia. (See below.) The three incidents were believed to be the responsibility of the same criminal group.

Pedro Vieira was dismissed as police chief of Rio Maria by Governor Gueiros, but to our knowledge, no charges were brought against him. Mayor Almeida of Rio Maria defended Vieira, claiming there was no proof that he had been negligent in the investigation.¹⁴⁶ His substitute police chief disputed that in an interview with Americas Watch.¹⁴⁷

On April 23 the police raided the *fazenda* Suaçui, publicly crediting that land conflict with provoking the kidnapping and killing of the Canuto brothers.¹⁴⁸ The police confiscated 10 firearms and handcuffs. Police chief Éder Mauro supervised the arrest of two foremen at the *fazenda* and the manager in Redenção. A settler, Aprigio Soares Menezes, was also arrested on suspicion of being involved in the killings. All were detained as a precautionary measure pursuant to the law that permits five-day detention of suspects.¹⁴⁹ The Xinguara judge later freed three of those detained.

Police investigator Éder Mauro told the press that he also had a warrant for preventive detention of the owners of the *fazenda* Suaçui, Geraldo de Oliveira Braga (Braguinha) and Jandercy Ferreira Matos, who probably fled to Minas Gerais.¹⁵⁰

On June 5 and 6, 1990, the police raided a second *fazenda*, Santa Helena or Jandaia, near Xinguara,

¹⁴⁴ Ibid.

¹⁴⁵ "Demitido delegado de Rio Maria," *A Província do Pará*, April 26, 1990.

¹⁴⁶ "No PA, sequestro de sindicalista faz governador demitir delegado," *Folha de São Paulo*, April 26, 1990; "Demitido delegado de Rio Maria," *A Província do Pará*, April 26, 1990.

¹⁴⁷ Interview with police chief Eleovaldo de Jesus Miranda de Souza, Rio Maria, Pará, June 23, 1990.

¹⁴⁸ "Detidos depõem sobre sequestro de sindicalista," *Folha de São Paulo*, April 27, 1990; "No PA, sequestro de sindicalista faz governador demitir delegado," *Folha de São Paulo*, April 26, 1990.

¹⁴⁹ "No PA, sequestro de sindicalista faz governador demitir delegado," *Folha de São Paulo*, April 26, 1990.

¹⁵⁰ "Chega inquérito da chacina com armas e gerente preso," *Diário do Pará*, May 3, 1990.

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where there were reports of murders and slave labor. It was believed that this *fazenda* was the hub of criminal activities by some *pistoleiros*, and that those responsible for the Canuto/de Oliveira killings in April had fled here from the police raid on *fazenda* Suaçui in April. Several *pistoleiros* were arrested, and the police confiscated arms and a mechanic's tool box which may have belonged to de Oliveira.

As of early 1991, there were two accused in jail: José Ubiratan Masua (a military policeman who confessed to participating in the planning but not the execution of the Canuto killing) and Merivaldo Ribeiro da Silva (Pássaro Preto) who confessed to other crimes but not the Canutos. Military police sergeant Edson Matos is confined to barracks. The head of the *pistoleiro* gang, João Machado (João Guedes), was arrested but escaped. Aprigio Soares was also arrested but released.

4. Background: the land conflicts in Canaã, Suaçui and Santa Helena/Jandaia linked to the killings

The assassinations of the Canutos and de Oliveira were linked by police to land conflicts in *fazendas* Canaã and Suaçui. Apparently some of the *pistoleiro* suspects in their murders operated out of *fazenda* Santa Helena/Jandaia, where there were additional and unrelated allegations that this same group killed several forced laborers and a *posseiro*.

In *fazenda* Canaã, near Rio Maria, the land conflict began with the occupation of 2,000 hectares in 1983 by landless peasants.¹⁵¹ An episode of self-defense by *posseiros* was believed to be the cause of the 1985 retaliatory murder of union leader João Canuto. Canaã was finally expropriated and the *posseiros* (now owners) renamed it Colonia João Canuto in his memory.

De Oliveira and three others were arrested in 1987 and accused of giving economic support to the workers engaging in that occupation (money allegedly used to buy arms). They were promptly freed.

Fazenda Suaçui (5,600 hectares) near Redenção was acquired by a large landowner in 1986 from the military agency created for the purpose of selling land, Grupo Executivo das Terras do Araguaia-Tocantins (GETAT). It was occupied from June to July 1988 by 20 to 30 peasant families, their numbers growing eventually to 40 families. They have to date been unsuccessful in achieving their goal of owning land on this *fazenda*.

After the occupation, in February 1989, the owner and administrator Geraldo Oliveira Braga (Braginha) sought out Expedito Ribeiro de Souza, president of the local PCdoB and since 1988 the elected president of the Rio Maria rural workers' union, to ask for an agreement with the *posseiros*.

Braginha offered to indemnify the *posseiros* for the services they had rendered, or to let them have 400 *alqueires* (1,936 hectares), if the federal agrarian reform agency INCRA would indemnify him. Each of the 40 families on the land would receive about 48 hectares. In March 1989, both the union official and Braginha asked the INCRA to make a survey and take the steps necessary for expropriation.

A few days later, on March 16, 1989, in an unexplained about-face, the *fazendeiro* expelled the *posseiros*, using his *pistoleiros*. The *posseiros* were forced into trucks and taken to Rio Maria. About 20 families were forced to accept indemnification from the *fazendeiro* in paltry amounts, but another 20 refused.

¹⁵¹ CPT, *Conflitos no Campo Brasil/88*, p. 70.

Some of the dissenting 20 families went back to the *fazenda* where they had belongings. The *fazendeiro* brought back the *pistoleiros* in May 1989. Shortly thereafter, two *posseiros* were killed. The body of one, who had only recently arrived, was found on May 10 near the road where they lived; he was killed without witnesses, it is presumed by the *pistoleiros*.

The other, Severino Francisco de Oliveira (Ceará), 42, was killed by two bullets in front of his house on May 24, 1989. Earlier in the day, he told a young man that he had been threatened by the *pistoleiros* because he refused the indemnification. The killing was witnessed by his mute wife and their two sons, the oldest being only two and a half years old. Severino was sitting outside the house with his two sons, reading; the men came and pushed his wife inside before shooting him.

No one was arrested in connection with these two murders. There did occur at roughly the same time, however, the arrests of Orlando Canuto and his brother-in-law in connection with the death of the cook at *fazenda* Suaçui. They were released and the arrests deemed illegal.

After the killing of the Canuto brothers in late April 1990, *fazenda* Suaçui was raided by the police who suspected that conflict of provoking the kidnapping and killing of the Canuto brothers. Arrests were made.¹⁵² An arrest warrant is outstanding against the owner, Braginha, and union president Ribeiro de Souza has been threatened (see below).

C. *Posseiros* at *Fazenda* Santa Helena/Jandaia

In June 1990, the same police team, led by Éder Mauro, raided the *fazenda* Santa Helena/Jandaia near Xinguara, Pará, a short distance north of Rio Maria. Part of this large *fazenda* had been occupied for some years by *posseiros* who were unaware they had occupied a *fazenda* that was the hub of a criminal band of *pistoleiros* involved in forced labor and murder.

While all these activities apparently escaped the attention of local authorities as well, the presence of the *posseiros* did not, and military police together with *pistoleiros* had entered the settlers' area on four different occasions in 1989 and 1990 to evict them at the behest of the landlord. Each time, some of the settlers returned to the land. Their story, except for the twist at the end of a police raid that benefitted them, is typical of the story of *posseiros* in Pará.

In August 1989, according to *posseiros* interviewed by Americas Watch, the *fazendeiro* started a legal action against them in the court in Marabá. They say they had no prior notice of any hearing. On August 18, eight military police and one officer, accompanied by three *pistoleiros*, arrived and told the *posseiros* that they could not stay there. Twenty-six families who received the warning left the next day. After receiving encouragement from the rural workers union and INCRA in Marabá, who told them they had a right to be there, four families returned on August 22.

On August 25, four *pistoleiros* found them, and, pointing their guns at them, told them to leave. The *pistoleiros* burned down nine shacks together with their belongings and their crops and trees, to destroy

¹⁵² "Detidos depõem sobre sequestro de sindicalista," *Folha de São Paulo*, April 27, 1990; "No PA, sequestro de sindicalista faz governador demitir delegado," *Folha de São Paulo*, April 26, 1990.

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their firewood. The next day the families left again, having no food or shelter. On September 6 and 7, about 20 *posseiros* returned, having been again to Marabá to consult with the union and INCRA. On October 10, they were evicted again by military police led by officer Ruiz and *pistoleiros* and forced to leave in the trucks owned by the *fazendeiro*. After three days in Gogó, 19 kilometers away, 42 people returned.

On November 28, another eviction team of military police, *pistoleiros*, and the same officer arrived. They took five *posseiros* to a meeting with the *fazendeiro*, who proposed paying off 11 families (for improvements made to the land). There were, however, some 45 *posseiro* families in all with a claim to the land and a meeting of all 45 proposed with the *fazendeiro* the next day never materialized when he refused to appear. Instead, he ordered the military police to evict everyone, according to the settlers.

The *posseiros* argued with the officer and soldiers, begging them not to remove their personal possessions. The military relented. All 45 people (including nine women and 12 children) then got into the trucks again, which took a delegation to the house of the *fazendeiro* to talk, with no results.

After a two day sit-in in the offices of INCRA in Marabá to protest the inaction in their case, the *posseiros* returned to the land.

On January 14, 1990, 14 military police, five *pistoleiros* and officer Ruiz arrived very early in the morning. They searched the houses for guns, tossing all the belongings of the *posseiros* on the floor, and confiscated all guns (hunting muskets).

Most of the *posseiros* took refuge in Gogó. In their absence, on January 16, eight *pistoleiros* were installed in one of the wooden houses, using the opportunity to eat the absent family's livestock.

In February 1990, the military police returned. They not only wanted the *posseiros* to leave, they also wanted them to remove all their belongings (so they would not go back). Several families lost valuable goods, such as sewing machines, beds, and other household furnishings, and at least one home was burned. The *pistoleiros* accompanying the military police robbed three houses, taking three electric chain saws, a bed, blankets, and clothing.

By this time, the *posseiros* were prepared to resort to violence to defend themselves against the *pistoleiros*. When the *pistoleiros* again entered the occupied land, the *posseiros* took aim at them and in the exchange of fire two *pistoleiros* were killed. This defense of their property had the desired effect: the rest of the *pistoleiros* ran off and did not return. The *posseiros* also took the precaution of circulating a rumor that there were 30 *posseiros* on the land, lying in wait for the *pistoleiros*, which the *pistoleiros* apparently believed.

By April 1990, however, the threat of eviction was ended. The *posseiros* were informed that the legal action against them had been dropped, and there would be no further eviction attempts by the military police. Five families returned to live on the land.

The violence was not over, however. The *posseiros* were back only 15 days when *pistoleiros* kidnapped a *posseiro*, Domingos Pereira de Abreu, 29. At 7 a.m. on April 16, 1990, Pereira de Abreu and his wife passed by the house of a relative (later interviewed by Americas Watch). As they proceeded down the road, about 50 meters from the house, seven *pistoleiros* jumped out of a hiding place and took Pereira de Abreu away. His wife ran for help.

The family thought that Pereira de Abreu had only been captured and would be released. When he did not return, his relatives became frightened and abandoned their homes.

Shortly thereafter, a *vaqueiro* (cowboy) from the Santa Helena/Jandaia *fazenda* house, Mauro Félix dos Santos, revealed that he had seen the captured *posseiro* at the *fazenda* house. The *pistoleiros*, 12 in all, beat Pereira de Abreu then tied him up and hung him from the rafters of the house, letting him down a few hours later. He ran, or they let him run, and then they shot him. They cut off his ear then fed his body to the pigs to avoid detection.

Dos Santos said that the *pistoleiro* turned on him after this incident, when they discovered that he earlier had tried to tip off *posseiros* about a plot by the *pistoleiros* to kill four *posseiros* in Gogó. He barely escaped and told the *posseiros*, then federal authorities, the full story, at the end of May 1990. According to him, these *pistoleiros* killed a total of nine persons, of whom the other eight were workers kept in conditions of slavery at the *fazenda*.

As a result of his testimony, the *fazenda* was raided on June 6, 1990 by the police, led by Belém police chief Éder Mauro, who was by that time investigating the Canuto and de Oliveira killings in Rio Maria. The police captured at least five *pistoleiros* there, after an exchange of fire in which no one was killed. At least three escaped, including the head of the band, João Machado (João Guedes), and two others.¹⁵³ Two are currently in jail for the Canuto killing (see above).

The police found the body, burned and thrown in a pig pen, of *posseiro* Domingos Pereira de Abreu, a large cache of arms, and a destroyed marijuana cultivation, indicating the *pistoleiro* had been tipped off about the impending police raid.¹⁵⁴

Dos Santos informed the police that he saw a set of mechanic's tools at the *fazenda*. There is a possibility these might have been the tools stolen from de Oliveira at the time of his killing on April 3, 1990, since Dos Santos said he heard the Jandaia *pistoleiro* talk about de Oliveira.

According to the *posseiros*, of the 2,700 *alqueires* (13,068 hectares) on the *fazenda* Santa Helena/Jandaia, they won 700 *alqueires* as a result of their struggle, with their 65 families receiving 52 hectares each.

D. Others Threatened in Southern Pará

Although the police belatedly started an investigation into the 1990 murders and raided two *fazendas*, the threats against those associated with the PCdoB and rural workers' union in Rio Maria intensified. In early June 1990, an unknown armed man entered the Hospital dos Servidores do Estado in Belém, asking for Orlando Canuto, who was still recovering from wounds inflicted when his brothers were assassinated. Orlando's police protection in the hospital lasted only 20 days and had been withdrawn by

¹⁵³ "Polícia descobre no Sul do Pará fazenda que mantém 'escravos'," *Jornal do Brasil*, June 6, 1990; "Pistoleiros de Marabá presos na DOPS," *O Liberal*, Belém, Pará, June 8, 1990; "Cinco pistoleiros são presos em fazenda que mantinha 'escravos,'" *Jornal do Brasil*, June 8, 1990.

¹⁵⁴ "Denúncia leva polícia a fazenda das mortes," *Tocantins*, Carajás, Pará, June 8-14, 1990.

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the time of this incident. A murder was avoided when a nurse sounded the alarm.¹⁵⁵

Exedito Ribeiro de Souza was the campaign manager for João Canuto's modest campaign for mayor in 1982 in Rio Maria, when they were in the opposition party Partido do Movimento Democrático Brasileiro (PMDB). Ribeiro de Souza was one of the people who founded the Communist Party, PCdoB, in Rio Maria in 1985, and in 1988 was its candidate for mayor. He was also elected president of the rural workers' union, and had received continual threats in connection with land disputes supported by the union. One of the more recent threats was made during the kidnapping and killing of the Canutos, when the captors said they would get Exedito Ribeiro de Souza next and then Orlando Canuto's brother-in-law. There was a rumor to this effect as well.

The federal government promised protection but produced absolutely nothing. A CPT representative, Father Ricardo Rezende of Rio Maria parish, met with Minister of Justice Dr. Bernardo Cabral on April 24, 1990 and asked for protection for Exedito Ribeiro de Souza, Orlando Canuto's brother-in-law Carlos Cabral Pereira and others. When Ribeiro de Souza went to Belém in May to seek protection, he approached the federal police, who said they did indeed have an order to protect him but were very busy and did not have any men to assign to him. He finally secured protection from the civil police in Belém, and one agent spent five or six days near his home in Rio Maria. When the agent left on June 10, Ribeiro de Souza went into hiding again in Belém. Shortly thereafter a suspicious man, claiming to be a federal policeman, paid a visit to his home in Rio Maria and grilled his relatives about his whereabouts.

Because Ribeiro de Souza was union president and its mainstay, the threats against him and his leaving town resulted in the closing of the union office at that time. A judicial official said a protective order was issued for the Rio Maria union office but the police guard was withdrawn when the union said it was no longer necessary. As of the Americas Watch visit in late June 1990, the office was still closed and there was no police guard.

Carlos Cabral, the son-in-law of João Canuto and brother-in-law of Orlando and the two recently killed Canutos, fled to Belém with his family and from there went to work in an undisclosed location.

Father Ricardo Rezende Figueira, a representative of CPT but not a member of the union or any party, is the author of *A Justiça do Lobo* (Petrópolis, Rio de Janeiro, Brasil: Vozes, 1986), a book about the land struggle in Pará, and is at work on a second book about his experiences in recent years. He has been frequently threatened but continues to live as parish priest in Rio Maria.

¹⁵⁵ "Insegura, a família Canuto está vivendo hoje na clandestinidade," *O Liberal*, June 3, 1990; "Família Canuto quer socorro do governador," *Diário do Pará*, June 3, 1990.

VII. Forced Labor

Disturbing cases of forced labor in Brazil occur in the inaccessible forests of northern and western frontier states where *fazendeiros* cut and burn enormous tracts of land for the purpose of turning the forest into cattle pasture. While environmentalists have alerted the world to the damage this practice causes the planet, and some economists bemoan the inefficient use of land for cattle raised for export, little attention has been paid to the human aspect of this practice: the brutal and illegal forced labor conditions imposed upon thousands of landless rural workers whom poverty obliges to work as the instruments of forest destruction.

Poor laborers are brought to estates under deceptive circumstances, held against their will through threats and acts of violence, and compelled to live and work in deplorable conditions.

Some owners and labor contractors (known as *gatos* or cats) take advantage of the isolated living and working conditions by retaining a small private army of gunmen, or *pistoleiros*, to enforce wages and working conditions that could not prevail in a free market. Not only are the workers prevented from quitting, they are forced at gunpoint to work for wages to which they did not agree, for 12 or more hours a day. Uncooperative workers are beaten or threatened with death. In several reported cases, workers have even been killed for trying to escape or for protesting their treatment. Even those who have fallen ill with malaria (rampant in these areas) or have suffered injuries on the job are compelled to continue working.

These practices are contrary to the laws of Brazil. In addition to labor regulations setting minimum wages and working conditions, Brazilian law forbids reducing a person to a condition analogous to slavery¹⁵⁶ (Penal Code, art. 149, punished by two to eight years in prison), and depriving a person of his liberty through private jailing or kidnapping (Penal Code, art. 148, punished by two to eight years in prison if the victim suffers physically or morally, and two to five years if the victim is deprived of his liberty for more than 15 days).

The federal police, who are supposed to have jurisdiction over cases of what Brazilians call "slave labor" when the laborer crosses state lines, seem never to investigate or prosecute these abuses. The buying and selling of laborers is rare but they almost all travel considerable distances seeking legitimate work, and at some point, either voluntarily or not, they cross state lines. Even after the state police have raided offending *fazendas* to free workers forced to work there at gunpoint, those responsible have gone unpunished by both federal and state authorities. Such raids are infrequent; most complaints do not result in any police action at all. On other shocking occasions, the police have detained "fugitive" laborers at the request of the *fazenda* manager.

In a few cases, *gatos* and *pistoleiros* have been detained, usually for brief periods, and accused of violating Brazil's labor code. To our knowledge, no owners have ever been arrested for the use of forced labor on their property.¹⁵⁷

¹⁵⁶ The penal code uses the word "escravidão" or "slavery" without defining it further.

¹⁵⁷ In one civil case from 1983 which was brought to our attention, the freed workers sued the owner of the *fazenda* for damages. A judge ruled that there had been no labor relationship between the workers and the owner, and that the

The Collor administration, while giving lip service to environmental goals, is failing to employ this obvious tool to accomplish these aims: stopping forced labor and enforcing Brazilian labor and criminal laws. Putting an end to illegal labor practices by criminal prosecutions does not require new legislation or a new bureaucracy, but enforcing labor standards would surely slow the destruction of the environment by increasing its cost.

A. Background

According to environmentalists, some of the clearing and burning of the forests is motivated by two related desires of landowners who have acquired large estates: to avoid expropriation, or to take advantage of formerly available tax benefits by showing that the land is being used. At times, this purpose is achieved by getting a gang of workers to clear the forest for pasture, and buying or borrowing cattle from a neighboring *fazendeiro*.

Frequently, the owners of these large estates live in remote cities and some are said never even to have visited their land. They delegate the management of the estate to a *gerente*, or manager, and the hiring and overseeing of workers to a *gato*.

Because of the scarcity of labor in these frontier areas, the *gato* often recruits laborers from hundreds of miles away. Economic conditions in Brazil, and its admittedly great concentration of land in the hands of a few, ensure that there are many candidates.

Gatos typically hire a group of men to perform a particular agricultural job, such as clearing forest, on a piecemeal basis (by hectare). Workers are usually illiterate and agreements are oral. In most cases workers are hired many miles away from the *fazenda* and without seeing the land to be worked.

Often, the oral contracts made in town, where the workers are recruited, are broken once the workers arrive at the *fazenda*. Wages turn out to be lower, and the work more difficult and time-consuming than described. Food, if not prepared by the *gato*, must be bought at the company store, which is often the only outlet for many miles and where no receipts are given. The quality and price of food in either case are non-negotiable. Housing is often makeshift—plastic tents, and hammocks, or the dirt floor, for workers to sleep on. Sanitary facilities are nonexistent. Yet the workers are usually charged for this "lodging."

These conditions often prevail for migrant workers even where there is no forced labor. The owners and *gatos* have complete control over the labor relationship; because the *fazendas* are so geographically remote, the workers have little recourse except to quit and try to find their way home, with nothing to show for their efforts.

But some owners and *gatos* retain a small private army of gunmen, or *pistoleiros*, to enforce their will as to wages and working conditions and to track down and punish those who try to escape from these appalling labor conditions.

only responsible party was the *gato*. On appeal, that ruling was reversed, and the owner and the *gato* were determined to share financial responsibility. As of this writing, the workers have not been paid.

As a justification for the use of force to keep the workers at their jobs, the *gatos* create a debt trap which amounts to indentured servitude or private imprisonment. They claim that the worker cannot leave the *fazenda* until he has worked off the debt that he owes the *gato* or estate owner, which the laborer's weeks or months of arduous work are mysteriously insufficient to cover. In part, the crushing debt is due to the high costs assessed workers.¹⁵⁸ In part it is the result of deplorably low wages. Once indebted, the worker rarely sees a profit.

In one case described below, a group of laborers received wages averaging Cz\$2,000 (U.S.\$23.52) for four months of 12-hour days, six or more days a week. That amounts to one cent (U.S.\$0.01) an hour.¹⁵⁹ And they only received that Dickensian pittance after they escaped and complained to the police and civil authorities; the police criminal investigation was perfunctory. In other cases, workers were not paid anything, and had to return to their families totally empty-handed after months of back-breaking work under the hot sun.

In cases of forced labor, workers who want to quit are refused permission to leave and prevented from doing so by armed guards, often on the pretext that they still owe money. The workers' only alternative is escape, which is difficult and dangerous. Most *fazendas* using forced labor are located in remote and unfamiliar areas, inaccessible by vehicle, surrounded by dense forest and often patrolled by armed guards. Many who try to escape fail because they are tracked down by the *pistoleiros*, beaten and sent back to work under guard. Those who do escape frequently must spend days and nights hiding in the forest, often getting lost. That migrant workers, who customarily endure arduous working conditions from childhood, go to such extremes to escape is a disturbing commentary on the *fazenda* they are fleeing.

Whatever the escaping workers' just debts might be, if any, the owner and *gato* break the law when they deprive any worker of his freedom to leave the *fazenda* or when they use force to compel him to work off the debt.

It is difficult to obtain reliable figures on the extent of forced labor in Brazil. Total figures are difficult to compile because many cases come to light only when some workers escape and dare to denounce the crime. The vast majority of escaping workers (or those freed by the police after their fellow workers escape and complain) are afraid to testify. They quickly scatter and return home, or to other *fazendas*, in search of work.

The two case studies that follow are among the 15 cases of forced labor that were recorded during the period between January 1989 and June 1990 by CPT. These 15 cases covered at least 2,000 workers subjected to forced labor, 11 murders, two disappearances, and scores of beatings. Seven of these cases

¹⁵⁸ The trap often begins at the moment a laborer is hired. Migrant agricultural workers, going from town to town looking for work, often stay in rooming houses. *Gatos* in search of contract labor customarily visit these houses and pay off the worker's rooming house bill. Sometimes the *gato* advances the worker a small amount of money for his family. The *gato* provides transportation, frequently consisting of a ride standing up for hours or days on the back of his truck. Later the workers learn they have been charged for this transportation.

¹⁵⁹ The exchange rate used is the average monthly rate, provided by Business International. A sweeping economic austerity package was introduced by the newly elected government on March 16, 1990 which has slowed down, but not totally eliminated, the galloping rate of inflation. The package also changed currency from Cruzados Novos (Ncz\$) to Cruzeiros (Cz\$).

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took place in the state of Pará; six occurred in Mato Grosso. Both states are in the Amazon region.

The two forced labor incidents are typical of a continuing pattern of exploitation of the landless agricultural workers and impunity for those who exploit them.

Although the federal government has jurisdiction over most cases of forced labor, it has totally reneged on its obligations in these two cases. This is so even though the cases were brought to the attention of federal authorities almost immediately by the victims and by the Pastoral Land Commission of Conceição de Araguaia, Pará.

CPT representative Father Ricardo Rezende Figueira, along with 14 members of Congress, met with Minister of Justice Dr. Bernardo Cabral on April 24, 1990. Their principal demands were for: 1) an investigation of the charges of forced labor at several locations in Pará and 2) for the freedom of those still being held in forced labor conditions in *fazenda* São Luis, near Conceição de Araguaia. (They also discussed four recent unrelated assassinations of rural activists in Pará and asked for protection.)

Minister Cabral said the government would investigate the São Luis case and free the workers.

Father Rezende and two former *fazenda* Arizona workers, Horacio Carmo de Osinia Cimento and José Hermogines Carvalho, also met in Brasília with Attorney General (*Procurador*) Aristides Junqueira Alvarenga. The two workers told of the murders, beatings, and tortures at *fazenda* Arizona by the *gato* and his *pistoleiros*, and provided the Procurador with extensive documentation. Osinia also reported that he had only been paid the equivalent of U.S.\$54 for seven months' work.

The Procurador promised that the federal police would open an investigation about on-going forced labor at São Luis.

To date, however, there has not been any federal action in the *fazenda* Arizona or São Luis case. When the Americas Watch delegation met with the deputy Minister of Justice on June 27 and asked him whether any action had been taken, he responded that the Ministry notified the Federal Police but he did not know whether anything had been done. Follow up letters from Americas Watch in September 1990 to the federal and state authorities in these and other cases alleging forced labor have not yet been answered. State charges are still pending against one defendant, the *gato* in the *fazenda* Arizona case, but the proceedings are stalled.

B. *Fazenda* Arizona in Redenção: One Killed, One Disappeared, Several Injured in 1990 with Inadequate Police Investigation

Americas Watch investigated a case of forced labor in late 1989 and early 1990 in *fazenda* Arizona, near Redenção in the northern state of Pará. We talked in June 1990 to some of the persons who had been held against their will at the *fazenda* and to police and human rights officials who had investigated the allegations of forced labor conditions, private jailings, beatings, torture, sexual abuse and humiliation. These officials had also investigated the murder of a worker identified only as Antonio ("Negão"), and the disappearance—while attempting to escape—of another named João Leitão de Dios. Workers who had made the complaints to the police and to human rights officials also denounced the presence of clandestine cemeteries on the *fazenda*.

We conclude that the police investigation in this case was totally inadequate and unsatisfactory. The police systematically construed all evidence in a manner most favorable to the *gato*, Wilkens Martins, and his men who were accused of murder and forced labor practices, despite damaging written admissions in the statements made by the accused, and a wealth of testimony by the victims. Even when the victims' testimony of beatings was corroborated by medical examinations, the police preferred to assume that the wounds were inflicted during fights among the workers, and not, as the workers testified extensively, by the beatings administered by the *gato* and his men. The police accepted the *gato's* defense that the workers owed him money and for that reason were making up the complaints, even though the owner ultimately paid back wages owed to the workers.¹⁶⁰

One of the most shocking aspects of the criminal "investigation" is that the police admittedly went to the *fazenda* in search of the clandestine cemeteries not in the company of the worker-witnesses and victims, but in the company of the accused. Moreover, they went there more than 30 days after receiving the initial complaint from the workers. Not surprisingly, they failed to locate any clandestine cemeteries, human remains or other evidence of crime.¹⁶¹

What provoked the investigation was the escape of a few workers. The conditions at *fazenda* Arizona were so harsh that, despite threats of punishment for escape, some of the workers fled the *fazenda*, about 20 miles from the town of Redenção, in late March 1990. They complained to the police, the prosecutor and the state court judge of the ill treatment and deaths they believed the *gato* and his men had caused. The remaining workers on the *fazenda* were abruptly dismissed without pay when *gato* Wilkens was about to be arrested, probably to undercut the claim of forced labor. The workers sought food and shelter from municipal authorities in Redenção.

Wilkens and nine of his *pistoleiros* were detained for investigation. After the CPT and community organizations denounced the case, the Santana family, which owned the *fazenda* but disclaimed responsibility for what had occurred there, paid off the workers. Prior to receiving their back wages, about 110 workers were required to sign recision contracts which, after substantial discounts for "expenses" such as food, netted workers on the average only Cz\$2,000 (U.S.\$42.30) for several months of work. The payment of these paltry wages was made in the presence of a representative of the Ministry of Labor.

After the perfunctory police investigation was concluded, the court ordered Wilkens and his gang freed. They were back on the street as of June 1990, and reportedly have threatened those who testified against them. Charges are still pending against Wilkens.

What follows is a summary of the highlights of the evidence found in the court record, containing substantial evidence of serious crimes. In addition, we include testimony from other witnesses whose affidavits were taken by the CPT that the police and the court did not hear, out of a lack of diligence.

1. Murder of Antônio ("Negão")

¹⁶⁰ The police *escrivão* Diogo Martins de Leão discussed the case with Americas Watch in Redenção, Pará, June 24, 1990.

¹⁶¹ Ibid.

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Detainee Moises Pereira da Silva,¹⁶² a worker substituting for an absent *pistoleiro*, testified that he had been forced to accompany chief *pistoleiro* Levy and had seen Levy shoot worker Negão, leaving him where he fell. He did not see whether the body was buried.¹⁶³

Americas Watch interviewed a 30-year-old man (not interviewed by the authorities) who had worked at *fazenda* Arizona from January 10 until late March. According to his testimony, shortly after the witness arrived at the *fazenda*, Negão told him that he had escaped one year before from another *fazenda* also run by *gato* Wilkens. He lodged a complaint with the federal police about being forced to work there. A year later, Wilkens found Negão, kidnapped him, and brought him to *fazenda* Arizona. The witness and other workers saw him being held for three days in a shack near them, hands tied, in a hammock and shoeless. Finally he was untied and taken out to work under guard.

According to the witness, on February 14 Negão left their camp with Levy and Negui (Moises Pereira da Silva). Levy and Negui returned alone.¹⁶⁴ Levy bragged to his friend José (we have changed his name), a worker, that they had shot Negão. Levy said that he "had shut the mouth of the traitor," and that he would kill others.¹⁶⁵ José confided this to our informant adding that he saw Negão's unburied body on the ground where he was clearing land. José gave an oral but not written report to the police.

2. Depriving workers of their liberty and disappearance

The *gato* Wilkens used armed guards to prevent workers from leaving the *fazenda*. The guards also pursued and captured fleeing workers, with orders to bring them back and beat them for their escape attempt. One worker escaping with others on the night of March 25, 1990, João Leitão de Dios, disappeared and is believed killed.

When matters came to a head and 34 workers fled the *fazenda* in a group that night, the *gato* Wilkens, *pistoleiro* Levy and others chased after and shot at them as they fled down the road on foot. Detainee Domingos dos Reis (Dominguinhos), one of the *pistoleiros* who chased them, testified that on the night of March 25 there was an "uprising" on the *fazenda* and that he, Wilkens and others chased after the workers who fled, although they did not catch them.

The men told of hearing a groan in the dark when the *pistoleiros* shot into the forest after them. To avoid capture, the men had to take cover in the bush and spend up to four days in hiding without eating.

¹⁶² Unless otherwise stated, testimonies in this section come from court records. The CPT took many other testimonies in addition to those taken by the court, which corroborated the court testimonies and provided evidence of additional crimes.

¹⁶³ After conferring with *gato* Wilkens in the jail cell, Pereira da Silva retracted his testimony.

¹⁶⁴ Gilberto Alves de Souza, 17, and Cezar Pantoja Brito, 46, fellow workers, testified in court that they saw the controller Levy and Neguinho take Negão from the camp and when they returned they claimed he had escaped, although they were carrying his boot. He never reappeared and they believed he was killed.

¹⁶⁵ In written CPT testimony our informant states that on February 28 Levy told José that he had killed Negão in Lote do Jovelino, on the shore of the Rio Agua Preta. Levy ordered José, at gunpoint, to keep quiet. Levy told our informant that Wilkens paid 30,000 cruzeiros (U.S.\$1,271) for each worker he killed, which he thought was very cheap.

Leitão was the only one of the group who did not collect his pay later in Redenção.¹⁶⁶ He was never seen again.

In a second episode, Benvenuto Gonçalves Neto escaped on October 24, 1989, but was caught, brought back, beaten, and forced to continue working without pay. He and others were contracted on October 12, 1989 to clear hedges; but when he arrived at the *fazenda*, Wilkens assigned them much more difficult work, threatening to beat them when they complained. On October 24 Gonçalves Neto fled to Redenção to denounce the mistreatment but did not find the federal police. Wilkens and two henchmen captured him as he was leaving town and took him back to *fazenda* Arizona where *pistoleiro* Firmino beat him harshly, threatening to kill anyone who denounced the work at the *fazenda*. Firmino said he would bribe the police to overlook the crime.

Detainee Moises Pereira da Silva testified that workers who tried to flee were recaptured and beaten harshly. He admitted being armed and beating them sometimes, because all the other *pistoleiros* also beat them. Detainee Francisco Pereira da Silva (Champagne) was promoted to *pistoleiro* on March 18, given a knife and gun and received express orders that if a worker escaped, he had to go after him. If he captured him, he had to punish him by beating with a switch, sheath of a knife or the knife itself. If Pereira da Silva did not obey, he would be beaten. He stated that he helped beat three workers. Detainee Domingos dos Reis said that if a worker escaped and was recaptured, he was obliged to work.

3. Beatings and other forms of mistreatment

Pistoleiros armed with .20 calibre guns stood over the workers, ensuring their labor. When a worker was sick Wilkens threatened him with beatings and forced him to work anyway. Cezar Pantoja Brito, 46, saw Wilkens wear out a belt in flogging a worker who was sick, to make him work. Valdete Lima de Souza was obliged to work barefoot, with infected feet, under threat of beating. Detainee Vilmar Pereira de Souza admitted that the *pistoleiros* Baiano and Levy beat the workers out of meanness.

Gilberto Alves de Souza, 17, testified he was beaten at least five times by Wilkens and his *pistoleiros* Levy and Antônio Pereira da Silva (Toninho). When Gilberto was sick he was forced by Wilkens to work. In mid-March 1990, he was taken by Wilkens to a brook, beaten with a leather strap and knife, dunked in the brook, and then had mud smeared in his face. A court-ordered medical exam indicated he had recent scars.

Cezar Pantoja Brito, 46, was beaten by Wilkens and could not breathe well for several days afterwards. On the day after the beating, Levy threatened Pantoja Brito with a gun and thrashed him with a cane. *Pistoleiro* Paulo da Costa Silva (Parazinho) struck him and held him underwater.

As soon as he arrived at the *fazenda*, Euripedes Carlos de Oliveira, 51, was obliged by Wilkens to carry a sack of rice on his back for four kilometers, while Wilkens and a thug named Carlos Nascimento Santos (Baiano) beat him with the sheath of a knife.

In testimony taken by CPT, one worker (whom we will call Santos) said six days after he started work in January the *pistoleiro* Francisco Pereira da Silva (Champagne) pointed a shotgun at him while Levy hit him with a knife. When he tried to defend himself Levy slashed his hand and cut it so badly he could not

¹⁶⁶ Two of those who fled, whose statements were not taken by the court, confirmed this court testimony.

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work for three months. Aside from three pills, he received no medical care from his employer. His story was confirmed to Americas Watch by a fellow worker, who fed and cared for Santos while he recuperated.

In testimony taken by CPT, a worker (whom we will call Luis) said Levy and another *pistoleiro* named Celson cut him in the face with a knife, leaving a scar. Wilkens and Levy both threatened to kill Luis, whom they later accused of being a ringleader of the "uprising" and escape.

A man whom we will call Fernandes told the CPT that a few days after he started working on February 27, the *pistoleiro* Antônio Pereira forced him to move a wasp nest. He was badly stung, but was threatened with a beating if he did not continue to work.

According to Fernandes' statement to the CPT, *pistoleiro* Antônio Pereira hit a 60 year old man, Esmeril, with a stick and knife, and made him carry a 60 kilo (132 lb.) rock on his head. The man was held under water until he was sick and could not work any more.

A man whom we will call Costa also testified to the CPT that he saw worker Euripo, known also as Mineiro, hit with a knife by *pistoleiro* João Fileno. While at work three days later he fainted from the pain of his injuries, and six men had to carry him to the shack. The next day, Wilkens ordered him back to work.

4. Adhesion contracts

An adhesion contract is a one-sided boilerplate agreement between unequal parties resulting from no bargaining and presented on a take-it-or-leave-it basis.

For the most part, workers at the *fazenda* had no written contracts before they started work, as required by law. In some cases they were forced to sign contracts after they arrived at the *fazenda* on unfavorable terms, and at gunpoint.

Cezar Pantoja Brito, 46, was recruited by Wilkens at the Hotel da Marlene in Redenção in February 1990, but no wage was agreed upon. Wilkens promised a good salary, but when Pantoja Brito and others arrived at the *fazenda* they were forced at gunpoint to sign a contract to clear an *alqueire*¹⁶⁷ for Cz\$800 (U.S.\$33.90). All expenses were to be charged to the workers, from the plastic to cover their shacks up to the stone to sharpen their work tools.

In another case, rather than sign contracts with each worker, a contract was signed only by the team leader, who was forced to do so at gunpoint, according to Fernandes' statement to the CPT.

Costa told the CPT that the work contracts were signed only by the team leaders for Cz\$1,000 (U.S.\$42.37) per *alqueire* for 20 *alqueires* (96.8 hectares) of clearing. The team leaders protested that the price was not enough for the work, but they were forced to sign the contract anyway. Anyone who stopped work was beaten or otherwise mistreated by Wilkens and his *pistoleiros*.

5. Sexual abuse and harassment

Sexual abuse and harassment were apparently used to humiliate workers and to keep them in line. In at least one case, it was a reward.

¹⁶⁷ One *alqueire* is 4.84 hectares or 11.98 acres.

Gato Wilkens forced a cook, Alderina Pereira da Silva, to "marry" Jovetino Vilela da Silva, a friend of Wilkens. Alderina did not want to marry Joventinho, but was threatened by the *gato* with beatings if she did not comply. Many workers told the court they witnessed Wilkens' threat and then saw the "wedding ceremony" he performed. Detainee Pereira da Silva had much the same account as the witnesses.

Wilkens and Levy are alleged to have forced men to perform fellatio on each other, apparently in an attempt to punish and terrorize them, according to hearsay witnesses including Euripedes Carlos de Oliveira, age 51.

Fernandes told the CPT he saw Antônio Pereira and Wilkens beat men on various occasions until they would perform fellatio, hitting them with a stick, knife and leather strap.

Detainee Francisco Pereira da Silva (Champagne) concurred that Levy made some male workers perform fellatio. Detainee Vilmar Pereira de Souza admitted that he heard many rumors that when Levy was bored, he ordered men to perform fellatio.

In testimony taken by the CPT, Luis said Levy and Celson obliged his wife to have sex with *pistoleiro* Luiz.

C. *Fazenda* São Luis Agropecuária, Conceição de Araguaia, Pará: Forty-two Held in Conditions of Forced Labor in which the Federal Government Neglected to Act

In this case, the local human rights group, CPT, personally petitioned high federal government officials on April 25, 1990 and asked that the federal police be sent to free the workers at *fazenda* São Luis Agropecuária. The federal officials agreed to look into the matter, but it died there. They took no action on these allegations of on-going forced labor. In addition, state police detained escaping workers for two days at the behest of the *fazenda* manager, a clear abuse of their authority since "escape" from a *fazenda* is not a crime.

On March 17, 1990, 42 men from Balsas, Maranhão were contracted by a *gato* known as Raimundo to work in the pasture of *fazenda* São Luis Agropecuária, near Conceição do Araguaia, Pará, hundreds of miles from their home. They were trucked a night and a day to the *fazenda* but were not fed en route as promised.

The contract with the *gato* Raimundo provided that the head of the team would receive Cz\$1,900 (U.S.\$51.38) and provide food, tools, housing, and other needs for workers on his team. They, in turn, would each receive Cz\$900 (U.S.\$23.34) per *alqueire* cleaned. When the workers arrived, however, they saw the work was much more difficult than described and that they would earn only about a third of what was promised. The team worked six and a half days a week, with only Sunday afternoons off.

After working for several days, some workers asked the *gato* for pay to send to their families. Raimundo informed them instead that they owed him money, and therefore could not leave the *fazenda*.

On April 2, others asked to leave, and were refused for the same reason. They disputed their debt and offered to forget about the money owed them and leave their belongings with Raimundo; they said that they just wanted to leave. Raimundo, armed and accompanied by another armed *pistoleiro*, detained the

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workers who were asking to leave.

Meanwhile, two other workers met with the manager of the *fazenda*, Mr. Conceição. They told him they were leaving and asked for their money. He replied that if they reached the shore of the Rio Araguaia, they would neither cross it nor return to their shacks, a clear death threat. He said that the workers only left over his dead body and that the *fazenda* was surrounded by *pistoleiros*.

Despite the death threats, and because they saw no way to work themselves out of the alleged debt, 14 men fled that night at 7 p.m. They walked a full night and a day and arrived at Vila Floresta, in the municipality of Conceição de Araguaia, state of Pará.

The day following the escape, Raimundo was advised that the group of workers had fled; he sent *pistoleiros* after them, saying he wanted to kill three of the fugitives to scare the rest. The *pistoleiros* did not find the escapees.

The manager, however, called ahead to the police in Vila Floresta and the "fugitives," as they were called by the manager and the *gato*, were detained in the police station at the manager's request. The escaped workers spent two nights in the police station.

On April 4 the manager went to Vila Floresta with the *gato* Raimundo and five other men, intending to take the workers back to the *fazenda*.

At the police station, the workers adamantly refused to go. When the military police hesitated and decided to consult their superiors, the manager and his group of men withdrew. In the meantime various townspeople of Vila Floresta (who were bringing food to the prisoners), had notified the mayor and the commander of the military police about what was taking place.

Three more workers later managed to escape from the *fazenda*, and arrived in Araguaiana several days later. As far as they knew, the rest of the workers, about 25 from Balsas and 30 from Fortaleza dos Nogueiras, Maranhão, were still being held at the *fazenda*.

As described above, the state and federal authorities have completely defaulted on their responsibilities in these two cases, although they were brought promptly to their attention by a visit to the highest authorities in Brasília and provided with ample documentation and witnesses.

VIII. Paraíba

Paraíba is a small northeastern state with 3.4 million people, a density of 56.77 per square kilometer. Its very fertile coastal lands are used to grow bananas and other cash crops; the interior is *sertão* (arid hinterland). Its capital, João Pessoa, is on the furthestmost eastern tip of Brazil.

In Paraíba, the 149,194 *minifúndios* (72 percent of all farms) represent 8 percent of the farmland, averaging 2.65 hectares each.¹⁶⁸ The 545 *latifúndios* over 1,000 hectares in size occupy 1 million hectares—or 2.6 percent of the land, averaging 1,860 hectares each.

The government's agrarian reform goals for 1985 to 1989 were for appropriation of 620,000 hectares of which only 8,896 hectares (1.43 percent) were actually expropriated, and only 318 of the projected 20,600 families settled.¹⁶⁹ In 1988 there were 29 land conflicts, in 1989 11, and three in the first six months of 1990.

The CPT registered four assassinations of land activists in 1988 in the state and two in 1989, but none in the first half of 1990.

Fazenda Serra Verde: Private Violence not Punished by the Authorities

The example of *fazenda* Serra Verde illustrates how, even if the rural workers are represented by counsel and ultimately prevail on the merits of their case, the legal system provides the owners with police to enforce interim orders and make arrests. It also shows how the legal system fails to take action to punish the private thugs who expel small farmers from land after the court upholds their rights to use the land.

Unlike other parts of Brazil, this is not the story of an occupation undertaken to lay claim to the land; these workers had rented and worked this land for many years, some as many as 40 years, and would have continued to do so had the new owner not tried to make substantial changes in their traditional contract arrangements. But ultimately landlord violence settled the dispute, not the workers' valid legal claims. Eighty armed men expelled 48 renter families occupying land after the court ruled against the landlord, injuring five persons and burning all their homes to the ground. The armed men were not prosecuted for these crimes although some were publicly identified.

Serra Verde, a *fazenda* of 980 hectares, is located near Araruna (population 19,337) in Paraíba, an area where several prior land occupations ended in expropriations on behalf of the workers. Araruna was celebrating its 400th anniversary at the time of Americas Watch's visit.

The owner of Serra Verde had rented out land to local farmers for many years, some as long as 40

¹⁶⁸ The *minifúndios* hold 396,037 hectares.

¹⁶⁹ CPT, *Conflitos no Campo Brasil/89*, p. 57.

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years, pursuant to oral contracts. There was no conflict until the property changed hands as a result of a divorce in early 1989. Although by law anyone acquiring property takes that property subject to existing contracts, and oral contracts for land are legal and enforceable in Brazil, the new administrator called a meeting of all the renters and tried to get them to sign written contracts with different terms; many accepted but a group of 48 families refused to sign because the proposed contracts were less favorable than the existing oral contracts.

According to the workers' attorney, the new contracts were illegal because under Brazilian law there can be no contract for land for a term less than three years, and the new written contracts were for shorter periods of nine months to a year.

The owner commenced an action on March 31, 1989, against seven of the families, alleging that they were illegally on her property and asking the judge to order them not to plant (they were planting manioc). The next day, the judge of Araruna, João Batista Barbosa, granted the owner's motion for a preliminary order preventing the families from planting, without notice or an opportunity for the defendants to be heard.

Ten months later, on February 6, 1990, after many motions, arrests, police and private raids, and much crop destruction, the judge reversed himself and ruled against the owner. The owner promptly used 80 armed men privately to evict the families, and they have not returned to the land.

In the interim, the workers made various attempts to enforce their rights. In March 1989, they went with the rural workers union to the federal agrarian reform institute, INCRA, and asked that the land be expropriated. On May 31, 1989, INCRA commenced administrative proceedings to expropriate the *fazenda* for the benefit of all 150 renter families, but the next day, June 1, 1989, the owner went back to court. Alleging that the seven defendants were planting in defiance of the prior order, she asked the judge to enforce that order. On June 27 the owner's gunmen destroyed the workers' planted fields, and when the workers replanted, they destroyed them again in August. At some point in time, there was an order by the judge prohibiting the defendants from taking or using water and wood from the *fazenda*, which does not seem to have been heeded.

The workers had lived in town and walked to the fields for many years, but when these problems began they set up shacks on the property so they could sleep there to protect against the destruction of their fields.

The local police official refused to register the complaint of the destruction of a worker's house and death threats occurring in September 1989. The police said that since the house belonged to the owner (of the *fazenda*), she could do what she wanted with it.

Perhaps two or three times in late 1989, the police, with judicial search orders, searched for weapons. Starting in late 1989, there were several incidents of arrests of workers, which were almost immediately reversed. The owner located cattle on the property which destroyed the fields the workers had planted. The cattle pasture was then burned. The police arrested some workers but released them because there was no evidence the accused had anything to do with the burning.

On December 8, the police threatened the workers and confiscated their farming knives, staying at the *fazenda* until the next day, when they arrested 12 workers (later released). They expelled the women and children from the area.

On December 10, the governor ordered 35 military police together with civil police onto the property to make arrests. They searched the houses, seized 23 shotguns and took 23 persons prisoner. This irregular action was not authorized by the judge and therefore the detainees, taken in at 4 p.m., were released 10 hours later by the judge's order.¹⁷⁰ The military police never returned the shotguns confiscated, making it appear that one purpose of the raid was to disarm the workers and prevent attempts at self defense.

The workers' immediate plea to the governor and the head of the police for the withdrawal of the police and the disarming of the owner's agents, and the expeditious processing of the INCRA expropriation, fell on deaf ears.

On December 13 the workers commenced an action for damages because of the crops destroyed by the owner, including beans, manioc, bananas, oranges and other products, all totally destroyed by the owners' cattle.

The landlords' armed agents, enjoying complete impunity from the police, continued to try to force the workers off the land. On January 16, 1990, at 3 p.m., the owner's administrator and son, a relative in the police force, and four thugs armed with rifles, 12-gauge shotguns and .38 revolvers, terrorized several workers on the site, threatening their lives if they did not leave, pointing a gun at the head of one worker, over 60 years old. The local police delegate, hearing the workers' complaints, said he could do nothing because there had been no shots and no spilling of blood.

On January 30, 1990, the workers started an action to preserve their possession of the land against the owner.

On February 6, the judge denied the two actions brought by the landlord. The reaction of the owner to the adverse judicial decision was to use private force to evict the workers.

The owner simultaneously used a tactic developed by the UDR¹⁷¹ outside the state. She entered into contracts with other rural poor for the land occupied by the holdout renters, turning one group of poor against another. This manipulated group of poor, about 40 men, was armed by the owner and, together with another 40 armed agents of the owner, on February 10, 1990, at about 3:30 p.m., forcibly evicted the holdout families and their supporters, wounding five of them in the process.

The armed group of 80 men did not have a judicial order (since the judge had just ruled against the owner), and even if there were a judicial order in their favor, private parties are not authorized under Brazilian law to enforce such orders. Renters identified the leader of the armed men as the administrator, Gildemar Cordeiro. Also present was his brother Ginaldo. The only official who seems to have been

¹⁷⁰ Furthermore, the governor ordered that persons who were not renters be arrested. (People came to camp on the property in a demonstration of solidarity with the workers.) According to the workers' representative, however, all arrested were renters. They were identified for arrest by a civil police agent who is a relative of the owner and knew them to be renters.

¹⁷¹ União Democrática Ruralista, UDR, is a landlord's association to defend their interests against the movement of landless rural workers and against agrarian reform.

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present was the civil policeman, Marcelo Cordeiro, Ginaldo's son, a relative of the owners. None was uniformed.

Upon entering, some of the armed men were pushing tractors, not using the motors so as not to alert the renters that they were arriving. This action took the farmers by surprise; when they looked up and saw what was happening, they were already surrounded by men with guns drawn and pointing right at them, and in some cases shooting into the houses.

Some of the armed men shouted "Out, everyone," ordering people out of their houses;¹⁷² as the people started to run for cover, the armed men took the gasoline they had brought with them and set fire to the houses.

Those wounded with bullets were Jose Vieira dos Santos, 42, and Geraldo Firmino de Souza, 37, both hospitalized in serious condition; Cícero Firmino de Souza, 66 (father of Geraldo), Jose Antonio Filho, 43, and Geraldo Cassiano dos Santos, 48, the last three wounded with buckshot, treated and released. The five were wounded with bullets or buckshot and many others were beaten.

Jose Vieira dos Santos was at home with his wife Rosa, 39, and three children, when the men shot into his house, wounding him on the back of the left shoulder and in the side, he told Americas Watch; he was hospitalized for three days. He believes he was wounded by Gildemar because he saw Gildemar aim his rifle at him. Geraldo Firmino dos Santos, another victim, confirmed this; Geraldo himself was shot twice.¹⁷³

Martin Francisco da Silva, 34, a renter on the property all his life, was hit in the kidneys and the back of the head while he stood in front of his house, holding one infant in his arms, with another child clinging to his leg, crying. The man who hit him was a cowboy working for the owner, he told Americas Watch. They ordered him to leave immediately; one man knelt down and aimed his gun straight at him, to emphasize the point. He saw them burn his house with everything inside as he was leaving.

The armed men used the tractors to push over the houses they did not burn, crushing the structures. The tractors were also used to plough up the fields.

The workers went immediately to the police delegate to complain but the delegate did not receive them and never investigated, although these incidents received coverage in the newspapers. Later, he claimed that he was not aware of the situation.

The same group of armed men came into the town of Araruna later that day, threatening people, firing their guns, looking for the priest who supported the workers, Father Assis, and threatening the wife of one of the holdout farmers in the central plaza.

Ginaldo, the administrator who participated in the raid, told the press that they were only defending themselves from the aggression of the workers, led by Father Assis. "We decided to place our workers on the *fazenda* and we were met with bullets by the priest's followers." The workers and the priest

¹⁷² There were about 18 shacks built by the holdout workers on the property by this time.

¹⁷³ "Victimas foram internadas," *O Norte*, Joao Pessoa, Paraíba, February 13, 1990.

deny they were armed and there were no allegations that the armed men who removed the workers were injured. Ginaldo held Father Assis responsible for the conflict, and announced he was going to call a meeting of townspeople to expel the priest from Araruna, "by force if necessary."¹⁷⁴

Ginaldo accused the bishop, dom Marcelo Pinto Cavaleiro, as well, of agitating the workers to invade *fazenda* Serra Verde. He stated there that when his workers went to the site and were met with bullets, they reacted by burning the houses and shooting to defend themselves. He accused the bishop and the priest of "placing Catholics against Catholics and workers against workers in the region," adding that the two priests are the "worst agitators of the region."¹⁷⁵

The bishop denied the accusations, saying that the Church "has an obligation to support the workers." The archbishop of Paraíba, dom José Maria Filho, said he would ask the governor to take precautions.¹⁷⁶

A special civil police delegate was designated to investigate the situation and he spoke with the wounded and others, but five months later they had heard nothing else of this investigation.

On February 16, the workers tried to return to the site, but it was too dangerous because the armed men were still there. The workers continued to pay rent into an escrow.

On April 30, disgusted at the lack of progress by INCRA,¹⁷⁷ 250 workers and their supporters sat in at the INCRA offices in the state capital João Pessoa and were expelled by 40 uniformed federal police the same day.

The group of expelled workers then went to the headquarters of the union federation, FETAG, where they stayed, 150 strong, with many children among them, in conditions that are reminiscent of war displaced; very cramped, bedding rolled up and tied to the wall during the day to give room to walk around, living in very unsanitary conditions, eating donated food cooked in communal kitchens.

On May 17, 150 to 200 persons occupied the Governor's Palace, and succeeded in getting an interview with him. The governor agreed to send a commission, headed by the director of the state land agency, to the site to investigate. He also agreed to provide food to the people camped out at the union headquarters, and to send a doctor to see them. The commission was not successful; the owners even threatened the worker representatives accompanying the commission, in front of the commission members.

The governor, recognizing that there was no resolution possible, finally agreed to purchase a site in Araruna of about 250 hectares for these 48 families. They have been notified that there will be a closing

¹⁷⁴ Ibid.

¹⁷⁵ "Conflito de terra deixa cinco feridos em Araruna," *Correio da Paraíba*, João Pessoa, Paraíba, February 13, 1990.

¹⁷⁶ "Invasores de terra são baleados na Paraíba e continuam internados," *Folha de São Paulo*, February 13, 1990.

¹⁷⁷ INCRA announced in January 1990 that due to lack of resources, it was unable to send a team to the area, which is a preliminary step in expropriating property.

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and the property will be theirs.

The armed rural poor who evicted the 48 families and then took their places on Serra Verde are now said to be disgruntled because the owners are charging them such high rent and have planted cattle fodder on their rented plots. The evicted families are enthusiastic about the possibility of organizing their former, misguided opponents.

IX. Rio Grande do Sul

The development of modernized agriculture for export in southern Brazil has produced a growing number of landless farmers who cannot afford the rising price of land and cannot find work in the mechanized sector. These farmers often come from family farms that have been subdivided numerous times.

These landless farmers, organized in the *Sem Terra* movement, (Movimento dos Trabalhadores Rurais Sem Terra, MST, or Movement of Landless Rural Workers), commit acts of mass civil disobedience to draw attention to their demand that the government agrarian reform program be made a reality. Their protests have been met with private and police violence that goes unpunished.

A. Background

Rio Grande do Sul, the southernmost state in Brazil bordering on Uruguay and Argentina, shares with these countries and the other two southern states, Paraná and Santa Catarina, a history of nineteenth century immigration from Italy and a temperate climate. Rio Grande do Sul has 282,184 square kilometers (108,951 square miles), and an estimated population of 9.2 million, or 32.83 people per square kilometer (12.67 per square mile). In the south of Brazil and neighboring São Paulo state the most productive and most mechanized agriculture in Brazil is to be found.¹⁷⁸

The southern region remained sparsely populated during colonial times. The Jesuit missions established on the borders of this region and in Paraguay and Argentina in the sixteenth and early seventeenth centuries were pillaged from time to time by armed bands (*bandeirantes*) from São Paulo searching for Indians to enslave. By the seventeenth century the Guaraní Indians, economically organized by and under the protection of the Jesuits, had a series of large communally-run farms in Rio Grande do Sul. Jealousy of this enterprise provoked the colonial government to expel the Jesuits in 1759 and massacre the Indians, seizing their rich farmlands while pushing them further into the interior.

Cattle escaped from these pillaged missions and roamed the empty fertile lands, increasing in number; they were hunted for their hides by a population of *caboclos* (a mixture of Guaraní Indians, escaped black slaves, and Portuguese). When the opening of gold mines in Minas Gerais in the eighteenth century created a market for beef, ownership of lands and herds began to be staked out and claimed. The culture of the cowboy or *gaúcho* was developed, based on the Iberian cattle culture. Portugal, disputing ownership of this territory with Spain, established settlements and sponsored immigration from the Azores in several villages along the coast of Santa Catarina. The southern fringe of this region became the nation state of Uruguay.¹⁷⁹

Rio Grande do Sul's people call themselves *gaúchos*, no matter what their ethnic origin. *Gaúchos*

¹⁷⁸ Blakemore & Smith, eds., *Latin America, Geographical Perspectives*, p. 359.

¹⁷⁹ *Ibid.*, p. 341.

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were originally horsemen who made a rough living during colonial times hunting for wild cattle and fighting for one or another of the local warlords, in what is now Argentina, Uruguay and Brazil. They still cherish a reputation for toughness; indeed, when we asked the prosecutor in the Chico Mendes case (who came from the South) if he was afraid, he replied "No. I'm a *gaúcho*." That reputation of *gaúchos* continues to be earned by thousands of landless rural workers today in the south, where whole families of *gaúchos* live in plastic tents on land they claim, enduring the extreme cold, rain and snow of the southern climate as well as state lethargy and sporadic violence.

Although the large plantation or *latifúndio* was the pattern for agriculture in Brazil dating from colonial times, the government broke with this pattern in the middle of the nineteenth century in order to attract European immigrants, and offer them the prospect of small farms in the three southern states. Landless Europeans arrived by the millions to Brazil as the New World provided a safety valve for the conflicts of the Old. This immigration was sponsored by the federal government, then by state governments and private colonization companies. Immigrants in the first half of the century were mainly German and in the 1870s and 80s Italian.¹⁸⁰ These people also consider themselves *gaúchos*.

The European immigrants of the nineteenth century set up small farms that became the bread basket of modern Brazil. Agriculture in this region became well-developed, based on mixed farming with crop rotation and stock-raising. Tobacco and grapes for wine were cultivated. "The keys to success for this European colonization appear to have been fertile forest soils, access to a market and settlement in large, compact groups."¹⁸¹

The south farms yerba maté (herb tea, grown here since the time of the Jesuit missions), soya beans for export, manioc, maize, kidney beans, pigs, rice and wheat. It accounts for nearly all the wheat grown in Brazil but provides only a small portion of Brazil's annual consumption.¹⁸²

In Rio Grande do Sul, the size of land granted to new immigrants declined from 77 hectares (190 acres) in the first colony established in 1824, to 48 hectares in 1851, and only 25 hectares in 1890. As of 1985, some 182,402 small farms (*minifúndios*, under 10 hectares) averaging 4.8 hectares each, represented 36.57 percent of the farms but held only 3.67 percent of the land. The 3,317 farms at the top end of the scale (owning over 1,000 hectares) averaged 1,963.6 hectares each: those 0.66 percent of the farms hold 27.3 percent of the land.

As the small farms were subdivided for generations and *minifúndios* created, sons who could not inherit moved to the western and northern frontiers of Brazil or, lacking even the small start-up capital needed for that undertaking, became landless rural workers at home, joining the *caboclos*.¹⁸³ Indeed, among the *Sem Terras* are many leaders with Italian and German last names. Even with excessive subdivision, some 40 percent of the farmers in Rio Grande do Sul are landless, according to the CPT. Workers say that they were pushed off the land as it became more and more expensive and bank loans they

¹⁸⁰ Ibid., p. 353.

¹⁸¹ Ibid., p. 356.

¹⁸² Ibid., p. 364.

¹⁸³ Ibid., p. 355.

had were foreclosed; others say they could find less work, even as laborers, because the large federally subsidized *fazendas* raising soya and wheat for export were increasingly mechanized and demanded less labor.

The *Sem Terra* movement in this region, responding to the particular conditions, cannot hope to acquire adverse possession or *posse* rights in the land by virtue of occupying it unchallenged for a year and a day; an occupation of a few days is readily detected because this state is traversed by roads, populated, and the land is often cultivated, not held for speculation as in the Amazon.

The movement instead relies on public opinion and whatever political pressure it can bring to the cause by committing the act of civil disobedience of occupying lands to which they have no title. The occupiers recognize that they are breaking the law against trespass, and do not undertake the action lightly. But it is a distressing measure of their desperation that these aspiring small landowners are not only willing to break the trespass law but also live with their entire families in conditions of extreme hardship for years.

The hardship is a result not only of the extremely primitive conditions of housing; they "temporarily" camp on property the state may provide them while they are negotiating, forever it seems, a solution to their problem of landlessness. The camps Americas Watch visited have "housing" of plastic shacks on flimsy wooden frames and inadequate sanitation. What makes this especially difficult is the fact that this part of Brazil, in the Southern Hemisphere, experiences winter: temperatures below freezing, snow, and frigid air from the South Pole.

Despite the civil disobedience tactics, which range from land occupations to sit-ins at public buildings in the capital, public opinion in this state is receptive. Indeed, there is even admiration for those who will stick it out for years in conditions of extreme discomfort in order to achieve their goal of having a family farm.

Usually an initial occupation of under-used land will be met by an immediate order of expulsion issued by a judge at the behest of the owner. Negotiations with the owner, the occupiers, and the state ensue, with the occupiers agreeing to vacate the property when the state government agrees to meet some of their demands.

The game the state plays, for fiscal reasons among many others, is delay. It will frequently promise to acquire land for the landless within a short period, 15 or 45 days, and provide temporary land for the occupiers to live on while state agents negotiate the purchase of land for them. In the meantime, the occupiers must live off food provided for them by the state or, more frequently, private agencies, since they are rarely in a situation that is stable enough to put in a garden.¹⁸⁴

Under the law, the state can also process an expropriation for "public utility uses." The federal government has exclusive jurisdiction over agrarian land reform, but it has never, to date, attempted to prevent the states from assisting their landless citizens through this loophole. The state, unlike the federal government, must pay cash for the property expropriated.

¹⁸⁴ In the three year period described below, for instance, the government has donated enough food for a total of six months.

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If the landless do not keep up the pressure, through periodic marches and sit-ins, the state agents delay the acquisition of land, whatever their initial promises. In the camps Americas Watch visited in Rio Grande do Sul, the occupiers had been engaged in occupations from between two and five years, and never in the same camp; they had been moved by the state from location to location, an additional hardship.

As land becomes available, the landless, internally organized, conduct raffles to determine which families will move out of the camp and into their own small plots.

Although it is often state officials who undertake to purchase land for the landless, the police have not been neutral in the conflict and on occasion have used excessive force in evicting or attacking occupiers, at times resulting in injuries or deaths. Nor do they investigate the landlords' agents who attack the occupiers. The justice system responds more readily to the demands of the owners for eviction orders than it does to the demands of the landless for prosecution of private parties who physically attack them and of police who use excessive force to evict them.

What follows is an account of a case, investigated by Americas Watch, in which private and police violence against occupiers went unpunished.

B. Occupations Leading up to the Attack on Settlers at *Fazenda* Santa Elmira

The calvary of one group of *Sem Terras*, consisting of hundreds of families, culminated in 1989 with police brutality committed against them in a site they occupied in Santa Elmira, Rio Grande do Sul. Despite extensive evidence of injuries suffered by the *Sem Terras* at the hands of the police, there has been no criminal prosecution of the police, although criminal charges are still pending against community leaders in connection with this incident.

Out of this whole process, which started in 1987, some 600 families were settled on their own land, and 170 remain to be settled; the rest got discouraged and dropped out. The families calculate that they have moved about 12 times in three years. At the beginning, the families had some belongings, but lost them during the police raid on Santa Elmira.

This saga began on November 23, 1987 when landless farmers occupied a 6,000 hectare *fazenda* in Palmeira das Missões,¹⁸⁵ 355 kilometers from the capital of Rio Grande do Sul, Porto Alegre. The *fazenda* belonged to a deputy. The farmers, about 500 families in all, stayed on the *fazenda* only four days before they were expelled by order of the court.

In most of their relocations, there was no police violence. The settlers negotiated with the civilian authorities. In this first negotiation, the state found seven hectares of land for them to camp on in the same *fazenda*, where they stayed for six months, until June 1988, according to the farmers, interviewed in the cold of July 1990 in their current camp at *fazenda* Capela outside of Porto Alegre.

Meanwhile, also in November 1987, another group of 780 landless farmers and their families occupied a *fazenda* in the municipality of Santo Angelo. After a few days, they were expelled by judicial order and as a result of negotiations went to camp in church lands in the municipality of Caibaté.

¹⁸⁵ This refers to the Jesuit missions that were established in this area.

They continued to pressure the state government to buy land for them; the government promised to buy a 700 hectare *fazenda* in São Miguel das Missões, so in June 1988 about 1220 families (from the two locations) converged on São Miguel, as part of a demonstration. The state promised to buy the *fazenda* within 30 days. They were there for seven months and the government did not buy the place.

Each time they were transferred, the landless were promised that they would be settled on lands the state was just about to purchase for them, and told to be patient. From time to time, the state provided land for a few families, but never enough for the whole group.

On July 25, 1988, the landless occupied the 11,000 hectare *fazenda* Buruti in Santo Angelo. The court ordered them to leave after they were there only five days. That brought the state Secretary of Agriculture to negotiate with them, and he promised that within 15 days they would be settled on their own land, if only they would go to the municipality of Tupã Cereta, where the state owned 600 hectares. The people moved to the new location and stayed there three months; except to settle 19 families, the Secretary of Agriculture seemed to forget about them.

The government made them leave the state lands and negotiated with them to move to Salto de Jacuí, also government-owned lands, with the promise that in 25 days they would be permanently settled. There were there eight months, until March 1989. They got nothing while they were there.

What provoked their next action was that local *fazendeiros* opposed to the settlers flew over their campsite in Salto de Jacuí with crop dusters twice in one day in February 1989, raining down liquid insecticide on the camp where 2,000 people were living. Children began to get sick. Four later died of the poisoning. An additional 15 children were hospitalized.¹⁸⁶

C. Attack on Settlers at *Fazenda* Santa Elmira

Distraught over the deaths of the children, the *Sem Terras* then occupied *fazenda* Santa Elmira, in the same municipality, Salto de Jacuí.

There were 1,200 families or over 8,000 people in Santa Elmira for one week. The landlord, however, secured an eviction order in record time—less than 12 hours. The settlers expected that, as in the past, they would enter into negotiations with state officials. They did not want to leave without a guarantee of land. However, the judicial official present refused to extend the 24 hours given them to leave, and they were violently expelled by the military police and private parties on March 11, 1989.¹⁸⁷

According to witness accounts, about 1,200 military police, including several hundred UDR armed men (in uniform, but bearded or otherwise looking nonmilitary), surrounded the camp at about 4 or 5 p.m. that afternoon, first releasing tear gas from crop dusters. The gas was described as white clouds that made the eyes water and breathing difficult. Many suffered from respiratory and eye problems for days after. Three children were taken to the doctor because of the gas.

¹⁸⁶ Frei Sérgio A. Gorgen, *O Massacre da Fazenda Santa Elmira* (Petrópolis, Rio de Janeiro: Editora Vozes, 1989), p. 34.

¹⁸⁷ This was the first instance in the state that occupiers had disobeyed a court order.

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There were also bombs, but it seems that they were only for the purpose of causing loud noises and frightening people. When the occupiers tried to throw dirt on the bombs to prevent the smoke from spreading, their eyes watered even more. The bombs were dropped every 10 to 15 meters through the camp as the two planes crossed back and forth overhead. The action—dropping tear gas and explosives—lasted about 15 minutes.

When the gas lifted, the police and others, all wearing gas masks, advanced on the camp. From 150 meters away they began to shoot. About 10 to 15 meters from the camp, they started using automatic weapons. The settlers responded with sticks and stones.

After 25 minutes, the settlers announced their surrender.¹⁸⁸ The police beat many of the people they captured; two men had broken legs and another was hit in the ribs by a bullet. Others were injured by bayonets.

There were 400 settlers wounded, of whom 19 (including three children with gunshot wounds) were hospitalized. Five police were hospitalized with bullet wounds.¹⁸⁹

Two priests were in the camp that day, accompanying the workers. Father Paulo Cerioli told Americas Watch that he saw the police hit Friar Sérgio in the chest and then strike him in the jaw with a rifle butt, breaking his teeth.¹⁹⁰

The police captured 22 men, among them the two priests. Of those arrested, some were forced to sit on anthills, naked, to force them to talk. Those who the police believed to be priests were especially singled out for beatings.¹⁹¹ Then they forced them with guns at their heads to get into a truck. They were taken to jail, where some were beaten again.

Those not arrested were forced to get in line with their hands on their heads. The police took documents, money, belts, jackets, shoes, and jewelry from the women. Then they made them get on trucks and took them back to the camp they had left a week ago. Most lost all their belongings, which they were forced to leave behind.

About 140 men were held back from the last group to get on the trucks, and were taken 40 kilometers from the camp and abandoned by the side of the road that night, at about 1 a.m. The police hit and kicked them. They were barefoot and without shirts, and had nothing to eat all day, but had to walk back, through the forest. It took them two to three days to return.

¹⁸⁸ Gorgen, *O Massacre da Fazenda Santa Elmira*, pp. 64-65.

¹⁸⁹ Ibid., p. 68. The settlers had earlier decided not to resist the police with guns. They had only about a dozen shotguns and revolvers. Ibid., p. 41.

¹⁹⁰ See Gorgen, *O Massacre da Fazenda Santa Elmira*, and *Massacre na Santa Elmira*, published by Deputy Antônio Marangon (Rio Grande do Sul: Partido dos Trabalhadores, 1989).

¹⁹¹ Gorgen, *O Massacre da Fazenda Santa Elmira*, pp. 70-72.

Those arrested, who were all workers or their supporters, were accused of possession of arms,¹⁹² resisting authority, and "invading" property. They were released on March 22 as a result of a *habeas corpus*.¹⁹³ The cases against them are still pending. No charges are pending with regard to injuries caused the workers by the police or the armed men.

Four supporters of the landless went on a hunger strike in the state capital of Porto Alegre to protest the police brutality at Santa Elmira. They tried to sit in at the Assembly but were expelled by the Assembly president. They were on hunger strike for 16 days, and this and other pressure forced the government to promise, again, to negotiate for land for the landless. The hunger strike was then called off.

To keep up the pressure, 120 families later went to the offices of the state Secretary of Agriculture and occupied it for 60 days. The government then promised again to locate land for them.

These families were in Salto de Jacuí from March to August 1989, after being expelled from Santa Elmira. Then on or about May 31, 1990, about 202 families occupied *fazenda* Capela, which was to be expropriated for being unproductive. But the owner went to court and stopped the process, preventing the families from planting.

Once again, they were promised by the state government and Secretary of Security that within 30 days they would be settled.

¹⁹² Fifteen shotguns, 10 revolvers, and various farm implements were captured by the police.

¹⁹³ Gorgen, *O Massacre da Fazenda Santa Elmira*, p. 85.

X. Conclusions and Recommendations

Impunity for the perpetrators of targeted assassinations in rural Brazil continues to be the rule, despite the December 1990 trial and conviction of two killers in the premeditated murder of rural union leader and environmentalist Chico Mendes. The police investigation leading up to the trial, as well as the trial itself, only served to underline the capacity of the Brazilian criminal justice system to punish some of the guilty—on the occasions when it receives sufficient international pressure to do so. In the 1,565 other killings of rural workers and their supporters documented by the Pastoral Land Commission in the 25 years from 1964 to 1989, however, there have been only a handful of successful investigations and convictions.

These killings are in the main carefully and selectively targeted murders of rural activists. Far too often, violence is the quick and dirty way for the rural elites to dispose of community and union "troublemakers" who dispute their right to maintain thousands of acres of land uncultivated or stripped of all forest for cattle pasture (beef for export), while millions of Brazilians willing to work the land remain landless and near virtual starvation in rural poverty or urban slums.

Brazil's system of land tenure is one of the most skewed in the world, with two percent of all farms consisting of large estates (over 1,200 acres each) which occupy half the farmland. A majority—three million—of all farms in Brazil are tiny, economically inviable farms (averaging 3.25 hectares each) all together representing only 2.6 percent of the farmland. In urban as well as rural areas, income distribution is increasingly sharply skewed, with an increase of the poor from 23.1 million in 1981 to 33.2 million in 1987, according to the World Bank. Naturally there is a movement for agrarian reform as well as squatting and desperate land occupations, organized and unorganized.

The total failure of the justice system to protect the lives of those pressing for change in the rural sector has significantly contributed to a continuation of the targeted assassinations, as the killers enjoy impunity from any police investigation or punishment. Indeed, as Americas Watch discovered, a double murder of a rural activist and his helper in early April 1990 was followed by an abduction and another double murder of activists three weeks later, by the same killers. The local police chief, who had arrested the victims during past land disputes, conducted a perfunctory investigation into the first murders. When the second set of victims was abducted at gunpoint from their homes, he was also grossly negligent: he did not even alert the police at checkpoints, thus letting the abductors escape with their victims. The police conduct in these crimes seems typical; these crimes were uncommon only insofar as someone survived and testified.

Many land disputes erupt into indiscriminate violence when the police, or private gunmen hired by large landowners, attempt to evict settlers or homesteaders and their families from land they are farming, land which is claimed by a large landowner. Often these evictions are accomplished through the use of excessive force with subsequent injuries and death to the settlers and their families, robbery of their personal possessions and burning down of their shacks. In many cases these evictions occur without court order or on the basis of a court order issued without notice to the settlers or any other semblance of due process, although under Brazilian law there may be a variety of defenses and counterclaims available to the settlers. Some settlers try to defend themselves against the gunmen and even, occasionally, against the police by using their hunting rifles, sometimes with injuries on all sides.

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In an ironic convergence of abuses, the destruction of the environment through stripping and burning of the forests is often accomplished through forced labor that violates Brazilian and international law. Landless rural laborers in dire need of any employment are lured onto vast estates, entrapped by debt, and forbidden to leave under punishment of beating or death when they protest the brutal working conditions and lack of pay. Yet state and federal authorities fail to prosecute those responsible for beatings, killings, maintaining workers in conditions of slavery or maintaining private jails, even after the police have to be called in to these estates to free the workers held there against their will.

Because this is rural violence, it is by definition not as visible or readily accessible as violence occurring in the cities, but government failure to enforce its own laws and curb this politically-motivated violence has a devastating impact on the future of democracy and economic well-being in Brazil.

Recommendations

Brazil's criminal and criminal procedure codes are legislated by the federal National Congress in Brasília. The states have the authority and obligation of enforcing and administering these penal laws through state judicial systems and state police and prosecutors, but they do not have legislative authority over any of these codes.¹⁹⁴

Thus legislative reform is not difficult, since only one federal legislature, not 23 state legislatures, must be lobbied for changes. But the political will to make changes does not seem to exist.

Even more difficult to reform is the habit of negligence that the police have in land conflict cases.

Americas Watch Recommends:

The government of President Fernando Collor de Mello should express its concern with the problem of violence associated with land disputes by creating a national commission to study the ways in which the incidence of such violence can be diminished, specifically addressing: 1) police violence; 2) violence by unknown persons directed at rural advocates and their allies; and 3) the cases presented in this report (and other cases documented by the CPT). This commission should be mandated to consult with the nongovernmental organizations that are active in rural violence issues. The commission should draw up a specific set of legislative proposals, which the Collor government should undertake to pass into law and enforce at the earliest possible time.

A. To address the problem of violence during evictions of settlers, the following legislative changes should be considered:

- 1. Greater due process in eviction actions. Specifically, legislation should be passed mandating that no eviction order should be granted unless those to be evicted have received actual notice**

¹⁹⁴ The states do have legislative authority over other codes, including education, penitentiaries, youth, etc. See Constitution, tit. I, art. 24.

and have been heard.

2. No force should be used to enforce an eviction order unless the exact nature and scope of that force is specifically authorized by the judge and affirmed on appeal. To avoid bloodshed, the judge should accompany the police executing an eviction order where more than five families are to be evicted; if fewer than five families, the police should be accompanied by another judicial officer.

3. A code of police procedure to be followed in evictions be promulgated that is consonant with modern concepts of police work and seeks to avoid violent confrontations and use of force. Such a code should include criminal sanctions for police who violate its provisions.

4. A damage remedy be facilitated for those who have suffered personal injury or property damage as a result of police misconduct.

B. Even before any legislative changes are made, the judiciary should commit itself to exercise its discretion to carry out items A1 and A2 above.

C. To address the problem of unsatisfactory or no police investigations into crimes of rural violence, the government should undertake to give these crimes priority at the federal and state levels.

1. The government should provide adequate funds for those investigations.

2. Special police officers should be assigned to each investigation where the local authorities have been either lax in responding to rural workers' prior complaints of crimes or involved in prior criminal proceedings against the victims.

3. A commission of attorneys known for their expertise in criminal law and dedication to fairness (with paid staff) should be created to review each case which is not prosecuted or is dismissed for lack of evidence. The commission should be empowered to subpoena new evidence, which should be admissible as evidence in the appropriate court. This commission should not be dissolved until the rate of convictions in these cases is substantially improved from the eight in 1,565 rate now obtaining.

D. To address the problem of forced labor, the government should create a commission (with paid staff) to investigate and prosecute, as special prosecutors in federal court, cases of forced labor, and to recommend legislative changes.

1. Federal and state police should be allocated to the commission on a priority basis to investigate cases of forced labor.

2. Legislation should be passed further criminalizing forced labor practices and increasing the criminal and monetary sanctions for these practices.

RURAL VIOLENCE IN BRAZIL

Chico Mendes was only one of the many victims of brutal violence in the struggle for land in Brazil. While his assassination and the subsequent trial of his murderers received international press, scant attention has been paid to the additional cases documented here. *Rural Violence in Brazil* examines the government's failure to enforce criminal laws, permitting and encouraging some large landholders and their gunmen to act with impunity when evicting settlers or forcing laborers—many virtually enslaved—to engage in backbreaking work for penurious wages.

Americas Watch calls on the government of President Fernando Collor de Mello to create a national commission to study the ways in which such violence can be diminished—specifically in land disputes—and propose legislation for his administration to enforce at the earliest possible time. Greater due process in eviction actions is required and to avoid bloodshed, a judge should accompany the police in certain circumstances when executing an eviction. Americas Watch also invites the government to address the problem of unsatisfactory police investigations into rural violence and forced labor, in the hope that this brutality will cease once and for all.