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REPORT OF THE FACT-FINDING MISSION IN RONDONIA – BRAZIL

December 1st to 4th, 2008

**PLIGHT OF LANDLESS PEASANTS, PRISONS, AND VIOLATIONS
OF HUMAN RIGHTS IN THE BRAZILIAN STATE OF RONDONIA**

INTRODUCTION AND OVERVIEW OF THE MISSION

The International Association of People's Lawyers (IAPL), as an international organization of human rights lawyers from various countries - especially where exploitation and oppression are most severe, human rights violations are most widespread and the peoples' struggles are most intense - supports the struggles for the rights of people all over the world.

The IAPL has members coming from Afghanistan, Brazil, Belgium, India, Nepal, Philippines, the Netherlands, and Turkey.

It was invited to conduct an International Fact-Finding and Solidarity Mission by the Brazilian organizations Núcleo dos Advogados do Povo (NAP) and Centro Brasileiro de Solidariedade aos Povos (Cebraspo) in order to investigate and verify reports on human rights violations in the state of Rondonia in Brazil. Particular attention was on the plight of the poor peasants in the area.

The NAP is the IAPL country chapter in Brazil. The NAP also invited lawyers from other Latin American countries to join the Mission. The delegation was composed of lawyers from Argentina, Belgium, Bolivia, Brazil, the Netherlands, the Philippines and Turkey. The Mission took place on December 1 to 4, 2008.

It visited the Urso Branco prison where it met the director and the vice-director of the prison, the judge for penalty executions of Porto Velho, Sérgio William Domingues Teixeira, and the peasant José Gonçalves Filho.

During the visit the group had very interesting and revealing conversations with several prisoners in and outside their cells and with the then detained peasant Filho. This visit was followed by a meeting with people's lawyers from Porto Velho who shared their experiences and challenges in handling local cases and issues.

The delegation also visited a local community radio station where the members of the Fact Finding Mission explained the objectives of the Mission and their impressions.

The Mission later interviewed Iramar, the Chief of Police of Buritis, where they expressed their concerns on the respect for human rights of the prisoners. The delegation was shocked to have personally

During the FFM, the delegation visited Urso Branco Prison, Ariquemes Detention Center, Buritis Police Headquarters, the University of Rondonia, a settlement of poor peasants in Jacinopolis, and a local radio station. The delegation had also meetings with peasants, detainees, lawyers from Núcleo dos Advogados do Povo (NAP), representatives from Centro Brasileiro de Solidariedade dos Povos (Cebraspo), Director and Vice-Director of Urso Branco Prison, the Chief of Police of Buritis, and with a number of students, professors, and social workers.

chanced upon the plight of an arrested pregnant woman who was handcuffed and left sitting on the floor of the prison's hallway for hours.

They spent an afternoon and night in solidarity with the poor peasants in their settlement in Jacinopolis and spoke at length with Gilson, son of Filho. Several peasants also came forward who shared their experiences and accounts of violations of their rights. The delegation then had a breakfast meeting with one of the peasant families who narrated their problems.

Next was a visit to the detention centre in Ariquemes where the delegation was able to speak with four detained landless peasants, one of whom told the Mission that he was severely tortured during his arrest.

The Mission then participated at a forum with students, professors, lawyers and social workers of the University of Rondonia. They discussed the criminalization of people's movements in Brazil and Latin America

The Mission ended with a final meeting with judge Teixeira, who provided his findings and recommendations that he presented to the Brazilian authorities concerning the poor conditions at the Urso Branco prison.

The issue of human rights in Brazil has intensified, especially the killings and the repression of peasants. There has been in the past several incidents between peasants, the local government and the *latifundistas* (landlords) during which poor peasants have been subjected to various human rights violations. The most known case is the Corumbiara incident of 1995 where, according to available official reports, 12 peasants were brutally murdered by police forces. Accounts of the victims also revealed that dozens of peasants disappeared.

The Brazilian state has been found liable for this massacre by the Inter-American Court of Human Rights. However, it has not made any effort to implement a genuine agrarian reform program, neither has it given due indemnification and help to all the victims.

The Fact Finding Mission concluded that human rights violations in Rondonia continue up to the present. The delegation expressed its serious concern about the detention conditions in Rondonia's prisons, the repression of poor peasants and the working conditions of people's lawyers.

THE STATE OF RONDONIA

The state of Rondonia is located in the northern part of Brazil. It is the largest state in the country but the least inhabited because of the difficulties of entering into the Amazon rain forest which has an area of more than 3 million square kilometers. The largest Indian communities in the Brazilian territory and the biggest Indian territories are concentrated in the North Region. Rondonia is located in the western Amazonia and borders Bolivia. It occupies an area of 237,576 square kilometers and an estimated population of 1,562,417 inhabitants.

The existence of huge and wide landownership in the hands of big cattle raisers, large lumberjacks and mine exploiters perpetuate an old relation of production. It is the peasants and small landowners who produce coffee, cocoa, rice, and corn.



By 1900, an estimated 300 people - mostly peasants attracted by the rubber cycle and escaping from the drought - left Ceara state, the north-eastern part of Brazil, and went to Amazonia.

In the 20th century and in the late 1970s and beginning of 1980, a new great wave of migrant peasants settled in Rondonia. Facing all sorts of difficulties, as for instance, lack of transportation, tough climate, yellow fever, malaria, and precarious living conditions, the peasants searched for land to work and survive. Since then they have been struggling for the right to the land.

In the early 1990, the organised poor peasants acquired land in Corumbiara, and started the communities in Verde Seringal, Vitoria da União and Adriana. All those places have

been marked by confrontation with gunmen, with the peasants suffering persecutions and evictions even as they were occupying more land.

A small group of families linked to giant national and foreign interests exerted great political and economic power in the region with their involvement in cattle raising, large lumber and mining enterprises based on the exploitation of peasants and with very feudal relations of production. These landlord groups tried to expand their domains by expelling the peasants from the land using armed men other than the political and military force of the State, and the criminalization of the peasant struggles by media.

During the long history of struggles for the land in Rondonia many massacres of the Indian population and peasants in the region occurred. In recent years, the situation has aggravated.

And with the development of the peasant fight for land and for the democratization of landownership by the organized farmers, State repression has heightened.



Photo 1: *The level of poverty and inequality is striking in Rondonia.*
(Photo source: IAPI.)

With the development of the peasant struggle, and the heroic resistance of the poor peasants in the state of Rondonia, the peasants have had many victories against monopoly landownership.

Today, Rondonia is a totally militarized region. There are several contingents of the military and police who act with the paramilitaries that are paid by the landlords. They operate with the connivance of the federal government's

agencies. And besides all these armed forces and institutions there is the Army, a clear demonstration of the State's intention to attack the poor peasants in struggle for real agrarian reform in the region.

Today, with all these conflicts and situation, poverty and inequality are striking, which brings serious unemployment, hunger, and other problems.

Quite significant and telling is the total number of prisoners per inhabitants in the state. There were approximately more than 20,000 prisoners out of 100,000 inhabitants in 2003 and reached an estimated more than 30,000 prisoners in 2008, making it among the highest prisoner rates of the world.

The Brazilian economy has been showing signs of crisis even before the earthquake of the present international financial crisis. The impact of the crisis on the Brazilian reality has been raising people's consciousness who have more and more struggles and who continue to assert their rights, supported by the people's lawyers and solidarity organisations.



Photo 2: *Today, Rondonia is a totally militarized region.*
(Photo source: LAPL)

The present Brazilian government has kept the former government's policies inoperative regarding agrarian reform and continues the criminalisation of the people's movements which continuous to get worse.

I. PERSECUTION OF POOR PEASANTS

1. LAND STRUGGLE IN RONDONIA

Rondonia was presented during the sixties as the “Eldorado Brasileiro”. Populations from the whole country were encouraged to migrate to the Amazon area and more specifically to Rondonia. General Medici, the then military dictator, defined it as follows: *“Let’s bring people from the Northeast without land to the land without people in the Amazon.”* This strategy ignored the existence of a local, indigenous population in Rondonia and remained silent about the latifundios that already existed in Rondonia. It was clear from the start that land was not as easily available as promised.

Thus, this political strategy increased the agrarian conflict already existing in the region. While Rondonia had a population of 36,935 people in 1950, the population had increased to 888,430 in 1980. But most migrants did not get any land upon their arrival in Rondonia and the local indigenous population often lost the land that they already possessed. Many were obliged to work for cheap labor as employees for the big landlords.

The historical occupation of the State of Rondonia appears to be part of the land policy of the Brazilian State, by the increasing expansion of the big landlords, by the destruction of the Amazon Forest, by the opening of fronts of cattle creations and monoculture, all for export and associated with international capital (the so-called “pioneer fronts”). This expansion of landlords’ fronts is the cause of the agrarian conflicts, which happens not only in Rondonia, but in other states like Para, because the landlords and their armed forces massacre and oppress the peasants and expel them from their original peasant lands.

Because of this exclusion from landownership, most peasants became unemployed and suffered great poverty.

The landless peasants started rapidly to organize themselves against the latifundios. In the 1980s and 1990s, several social movements who had as a goal the recovery of lost lands, came into being.¹

2. CORUMBIARA MASSACRE

Since the last century, the local population suffered from the actions of the landlords who started to form paramilitary groups against the peasants. The conflict between them ended several times in violent clashes. The most known case of such confrontations was the case of Corumbiara. In the beginning of the 1990's several landless peasants spontaneously and in an unorganized manner occupied land in Corumbiara, a municipality in Rondonia, where they set up their communities. They had succeeded in this inspite of the violence of the latifundistas.

¹ HUMAN RIGHTS WATCH, “The struggle for land in Brazil: rural violence continues”, HRW, Index n° 0707, 1 Mei 1992

On August 9, 1995, the incident which came to be known as the Corumbiara massacre happened and was exposed internationally because of the cruelties done by the paramilitaries and police against the 600 poor peasants that occupied the Santa Elina farm.

In this context, a peasants' organization called the League of Poor Peasants (Liga dos Camponeses Pobres, or LCP) was formed in the process of social and political struggles amidst the conflict of Corumbiara. It claims that Agrarian Revolution is the only way to bring deep changes to the peasants, transforming the land structure and the production and social relations in the country. It has an agrarian program that includes the suppression of the latifundium system, the improvement of the economic production by the own peasants and the establishment of the people's power in the occupied areas, and in the process to establish a new democracy.

In the state of Rondonia, the reports indicate that the LCP has been the target of the attacks, repression and criminalization of the peasants movement, which includes continuous large press articles falsely charging them as bandits.

In May 2009, the peasants organized and reoccupied the Corumbiara/Santa Elina lands. Reports showed that everyday for a month, the peasants were attacked by the landlords and policemen. In one single day, there is information that more than 200 shots were fired at the camping area and many houses were burnt down.

Further information reaching the delegation pointed out that hundreds of firearms were used in the attacks and many cartridges were found in the camping area. However, no perpetrator has ever been arrested while the families were evicted from the lands. The Brazilian government was condemned by the Inter-American Court of Human Rights for this incident.

It was found out that the LCP questioned the Brazilian government concerning the incidents which took place in Rondonia. The LCP submitted a case three years ago to the then Minister for Agrarian Reform, Miguel Rosseto, in which they made a complaint, among others, of the lack of response of the federal government concerning the physical attacks. Until today, LCP has not yet received any response.

The delegation was informed that the authors of this crime remain unpunished. Under the first government of Lula in 2004, an amendment of the constitution was carried out, which classifies crimes against human rights as federal violations. This allows certain human rights violations that happened at the state level to be examined at the federal level. Until today, however, no such investigation has happened.

The delegation has also been informed that the struggle for land continues. So does the violence.² A large part of the farmers concerned continue to demonstrate against the

² www.napbrasil.org

latifundios and continue the occupation of land. Settlements were built by the poor peasants where now thousands of people live and work. However, the armed militias invade the settlements regularly and intimidate the farmers. It was noted that the conflict in Corumbiara is repeated along the State of Rondonia.

3. TWO CASES INVESTIGATED BY FACT FINDING MISSION

During the Fact Finding Mission, the IAPL delegation was informed about numerous cases of harassment of the poor peasants by the landlords and the police.

For these cases, the Mission availed of several sources of information. In addition, the statements of several poor peasants indicated a structural problem of violence towards the poor peasants.



In this report, the Mission analyzed the following two cases:

Photo 3: *Urso Branco Prison, Rondonia.*
(Photo source: LAPL)

3.1. União Bandeirantes, case of José Goncalves Filho

The IAPL delegation met in the Urso Branco prison a poor farmer that was then recently arrested during a raid on the land he occupied. José Goncalves Filho is a poor peasant who has systematically been harassed by a big landowner. When the delegation met him, José had been in prison for 25 days. [The delegation was informed that he was subsequently released on January 30, 2009.]

The delegation spoke with José himself, his son Gilson and his lawyer. The three independently corroborated each other's stories.

José bought in 2004 a land for 15.000 R\$. The person he bought it from turned out not to have a legal title though. At that moment, the land was still subject to an investigation by the Federal Institute of Agrarian Reform (INCRA). But José was deceived by this person. Later on a Brazilian court declared part of the land public and the other part under the ownership of a *latifundium*.

The landowner, with the aid of armed men, tried to evict Jose and his family six times from their land, several times without a warrant. Seeing that the land remained uncultivated, the family occupied the land again. The evictions happened in a violent and brutal way. After every eviction everything in the camp was destroyed or plundered.



Photo 4: FFM delegation conducts a visit in Urso Branco Prison, Rondonia. (Photo source: LAPL)

The peasants' settlement was reportedly attacked by several armed men and three persons were killed. The women were handcuffed while the men hid in the forest. Gilson testified that he saw the men arrive and that he recognized one of the armed men, who is known to have worked for the landlord. He also said that he saw the three dead bodies. They were handcuffed and shot in the head.

After the last eviction, the family moved to another area where they occupied another uncultivated land.

Although José has been released, the family still feels threatened and fear for their life.

3.2. Case of four peasants in Ariquemes

In the detention camp in Ariquemes, the delegation met four poor peasants in detention.

They told the delegation that they were all arrested during the same night when the police invaded their houses without a warrant. The invasions were described as unnecessarily violent. A daughter of one of the said detainees was shot in the foot. Another said that he was beaten by the policemen. They said that they were arrested and brought to the police office with a plastic bag over their heads.

The reasons for the arrests were all the same: they were accused of possession of firearms. But the four peasants only had a rifle in their houses, which is common for a farmer in Rondonia. This raises serious questions on the justification for the arrests, indicating that the real reason was their occupation of uncultivated land.

II. POOR CONDITIONS IN URSO BRANCO PRISON

1. BACKGROUNDER

In the state of Rondonia, there are 15 prison facilities for men and there is one for women. The total number of prisoners per inhabitants in the state reached 21,869 prisoners per

100,000 inhabitants in 2003 and increased to 30,880 prisoners per 100,000 inhabitants in 2008.³ This number is among the highest prisoner rates of the world.

In Rondonia, there were 21,869 prisoners per 100,000 inhabitants in 2003. This number increased to 30,880 prisoners per 100,000 inhabitants in 2008, making it one of the highest prisoner rates in the world. Currently the state contains 15 prison facilities for men and one for women.

The IAPL Fact-Finding Mission visited on December 1st, 2008 the “José Mario Alves Detention Centre” also known as the “Urso Branco Prison”.

This prison, situated in Rondonia’s capital Porto Velho, is a prison for men with a capacity of 456 prisoners and hosts offenders of different types. The most common offences of the prisoners is robbery (27.37 %), drug trafficking (23.57 %) and homicide (10.15 %). The inmates of the prison are either in

provisional custody (45.51 %) or are convicted offenders (54.49 %). The average age of the prisoners is between 20 and 30 years old, with 69.91 % of the prisoners under 24 years old.⁴

The delegation also visited the detention centre in the city of Buritis on December 3rd, 2008. The delegation spoke on that occasion to the Vice-Director of the prison and shortly to the Director. It also had interviews with the four detained peasants mentioned above. The visit, however, had to be cut short because of a brewing riot starting from one of the cells. The Mission found out that the prisoners learned of its presence and took advantage of the opportunity to express their grievances. Considering that the delegation did not have the chance to visit the cells or to have access in any other way to this detention centre, this part of the Report will concentrate on the situation in the Urso Branco Prison.

2. VISIT TO URSO BRANCO PRISON

2.1. Sources

The IAPL delegation spoke with the criminal sentence execution judge, Mr. Sergio William Domingues Teixeira and top prison officials including the prison Director and the criminal executions prosecutor. The delegation also spoke on that occasion with the peasant Jose Goncalves Filho as discussed above.

The delegation entered the prison compound and had an open view of the inner yard, saw the room for family visits and was allowed physical access to one wing of the prison and actual entry to one cell.

³ Report by Mr. Sergio William Domingues Teixeira, July 19th, 2008 directed to the “Corregedor Geral da Justiça de Rondônia Desembargador Sansão Saldanha”.

⁴ Ibid.

The Mission also had access and studied the orders of the Inter-American Court of Human Rights of June 18, 2002; August 29, 2002; April 4, 2004; July 7, 2004; September 9, 2005 and May 2, 2008, as well as the request of the general attorney for a federal intervention according to Article 34 and 36 of the Brazilian Constitution.

The Mission also received the report from the criminal sentence execution judge, Mr. Teixeira, directed to the “Corregedor Geral da Justiça de Rondônia Desembargador Sansão Saldanha”.⁵

2.2. Observations and Findings

A) OVERPOPULATION



Photo 5: *Urso Branco Prison holds more than twice the number of prisoners than its capacity permits.*
(Photo source: LAPL)

In Brazil, the main problem of the prisons, particularly in Urso Branco, is the congestion and overpopulation. The Urso Branco prison has a normal capacity of 456 prisoners. The old part of the prison is composed of six wings, each with ten cells, making a total of 60 cells with each a capacity of 6 inmates. In 2006, the prison expanded with a new wing, with 4 blocks with four cells each for six prisoners.

⁵ Report by Mr. Sergio William Domingues Teixeira, July 19th, 2008 directed to the “Corregedor Geral da Justiça de Rondônia Desembargador Sansão Saldanha”.

But the cells are actually occupied with many more prisoners. The cell the IAPL delegation visited for example had 17 prisoners. The delegation could observe from the corridor that it was the same situation in the other cells. This was confirmed by Mr. Teixeira. Thus the total population of the Urso Branco prison was 1102 prisoners, or 2.41 times the actual capacity.

Cells in which the newly arrived prisoners are placed are often even more crowded. Mr. Teixeira admitted that these “reception cells” are sometimes filled with up to 50 persons.

The safety problem is also related to the lack of penitentiary officers. According to Mr. Teixeira, until a few years ago, there was only one agent available for every 200 prisoners. Today the number of agents increased to one agent per 40 prisoners. At the same time, the training and general level of preparation of the institutional personnel seems to be insufficient. The delegation has serious doubts whether the personnel corresponds to the minimum standards stipulated in the “Standard Minimum Rules for the Treatment of Prisoners” of the United Nations.⁶ This overpopulation is only an indication though for the other problems the prisoners are confronted with.

B) VIOLENCE IN THE PRISON

Overpopulation is conducive to the outbreak of violence in the prison and prevents ensuring the safety of certain prisoners that need to be separated from the other prisoners, because of the special – considered immoral by their fellow prisoners -offenses they committed or because of threats they receive from other inmates.

The inhuman conditions that the prisoners are subjected to reportedly resulted in a rebellion in 2000. Two years later, the violence reached a critical stage when during another rebellion 27 inmates lost their lives in a particularly violent manner.

This incident became the reason for the first order of the Inter-American Court of Human Rights on June, 18th 2002.

The Court describes the incident as follows:

“On January 1, 2002 the Urso Branco Prison authorities conducted a general relocation of inmates within the facilities, during which they effected the following changes: the inmates whom they believed endangered the life and safety of other inmates were transferred to cells located outside the general pavilions; the roughly 60 inmates who were isolated in “safety cells” were transferred to the general population cells (...) “Systematic murdering” of inmates coming from the “safety cells”

⁶ Articles 45 – 54 of the Standard Minimum Rules for the Treatment of Prisoners as adopted by the first United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977

began that same day, at approximately 21:00 hours. The inmates “yelled for help from the penitentiary police agents who did not intervene to avoid those deaths.”⁷

The report of the Inter-American Commission directed to the Court stated:

“There is sufficient supporting evidence to presume that the life and safety of inmates at the Urso Branco prison is at grave risk. The situation is extremely grave in light of the fact that from January 1, 2002 to June 5 of the same year, “37 people have been brutally murdered within the Urso Branco Prison”.⁸

The violence though did not lessen after the order of the Inter-American Court. New violent incidents in June and July 2002 resulted in an additional order of the Court on August 29, 2002.

Remarkably in the August 29th, 2002 order is the finding of the Commission that following the June 18th order, prisoners have been intimidated and even tortured by penitentiary agents and military police in order “to stop them from providing information on the grave situation at the prison.”

Several violent incidents and cases of torture in the following years gave rise to four more orders of the Inter-American Court on April 22, 2004; July 7, 2004; September 9, 2005; and May 2, 2008.

Although the delegation did not directly receive complaints from the prisoners concerning any recent torture, it refers to the recent order from the Inter-American Court of May 2, 2008 that quotes the Commission’s report:

“The representatives in their most recent writings have reported events of torture, which they would have been able to verify by seeing the marks in the prisoners’ bodies while interviewing them.(...) The representatives’ particularly serious report that in such mutinies state agents would allegedly have been involved in the aggressions against the prisoners.”

The report further continues with a description of how after a mutiny on July 9, 2007, prisoners that were already completely under control were allegedly obliged to lie naked on the floor in the yard and were shot several times. This incident caused the death of an inmate.

⁷ Order of the Inter-American Court of Human Rights of June 18, 2002, Provisional measures requested by the Inter-American Commission on Human Rights with respect to the federal republic of Brazil – Case of Urso Branco Prison.

⁸ *Idem.*

The delegation also notes that according to Mr. Teixeira, three more deaths occurred in the year 2007⁹, which indicates how the general security situation in the Urso Branco prison is still very volatile.

The State of Rondonia is ultimately responsible for such serious human rights violations and more precisely for the violation of the right of every person not to be tortured or subjected to cruel, inhuman or degrading treatment or punishment as stipulated, among others, in article 5 of the 1948 Universal Declaration of Human Rights, the 1966 International Covenant on Civil and Political Rights and the 1984 Convention against Torture and Other Cruel, Inhuman or degrading Treatment or Punishment.

C) POOR CONDITIONS OF THE CELLS



Photo 6: *The prison facility does not fully provide basic human conditions to the prisoners.* (Photo source: LAPL)

The prison facility does not fully provide basic human conditions to the prisoners. The actual state of the cells causes an inhuman treatment of the prisoners which forms again not only a violation of the aforementioned instruments but also the right to the protection of one's honor as contemplated in article V of the American Declaration of the Rights and Duties of Man. The delegation also explicitly refers to the Standard Minimum Rules for the

⁹ Report by Mr. Sergio William Domingues Teixeira, July 19th, 2008 directed to the "Corregedor Geral da Justiça de Rondônia Desembargador Sansão Saldanha".

Treatment of Prisoners as adopted by the first United Nations Congress on the Prevention of Crime and the Treatment of Offenders¹⁰.

The cells are in very bad shape and do not have adequate hygienic provisions. Each cell has a small wash corner which is separated from the rest of the cell by a simple wall. The entrance to this corner is open though. This corner has a hole in the floor that serves as a toilet and as outlet for water after washing. The “toilet” also has a flush, though several prisoners reported to the delegation that it was broken in some of their cells.

In addition to these poor hygienic provisions, there is limited access to water. Cells are provided with water for twenty minutes for three times a day only. Prisoners complained about the dramatic lack of water. There was not sufficient water for a “shower” for each of the prisoners. Thus, some of the prisoners have not washed themselves for months, let alone have enough water to drink. The risk of dehydration is a real consequence.

The cells also do not have sufficient ventilation. The cell visited by the delegation had two very small ventilators, one of which did not even work. This situation is especially serious given the very warm and humid climate in Porto Velho.

Prisoners also made complaints about the quantity and quality of the food provided to them. There was not enough food and it would be of a very bad quality. This is confirmed in the order of the Inter-American Court that states: *“that water supply is poor, so many suffer from dehydration, and it is of extremely bad quality, just as the food”*¹¹



Photo 7: *The cells are in very bad shape and do not have adequate hygienic provisions. (Photo source: LAPL)*

¹⁰ The Standard Minimum Rules for the Treatment of Prisoners as adopted by the first United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977

¹¹ Order of the Inter-American Court of Human Rights of May 02, 2008, Provisional measures with regard to Brazil – Matter of Urso Branco Prison.

This lack of a proper hygiene results in a deficient state of health of the prisoners. The delegation has been told that serious health problems occur, like malaria, meniscus and even scorbutic illness. Prisoners do not get proper medical treatment since there is no permanent medical service.



Photo 8: *The cells are overcrowded, where inmates have to alternate the use of mattresses. (Photo source: LAPL)*

Prisoners sleep on a simple mattress or even on the floor. For instance, in the cell visited by the delegation, four of the 17 prisoners did not have any mattress. Mr. Teixeira informed the delegation that the State only delivered mattresses for the official capacity of the prison. The mattresses from the State are of very bad quality.

Those that did not have a mattress asked help from their relatives. Since the aforementioned four prisoners come from the countryside, their families live so far away as to be able to bring them a mattress, clothes or to visit them. As a consequence, they sleep on the floor and wear for months the same clothes. Some prisoners declared that they can not sleep together at the same time because of lack of space in the cell. They would be obliged to take turns in sleeping. But Brazilian legislation obliges the State to provide a mattress for every prisoners.

These living conditions are a manifest violation of the Brazilian legislation on detention conditions. Article 12 and article 41 of the Law N° 7.210 of July 11, 1984 on Criminal

Sentence Execution oblige the Rondonia State to give the material assistance to the prisoners such as alimentation, clothing and proper hygienic installations.

Up until now, the Rondonia State has failed to give the prisoners the material assistance as foreseen in the Criminal Sentence Execution law.

D) SOCIAL AND MORAL CONDITION OF THE PRISONERS



Photo 9: *Prisoners receive no form of social or educational activities and no book or newspaper. (Photo source: LAPL)*

The prisoners are only allowed to leave their cells once a week for four hours. Although in the period preceding the visit of the delegation, the prisoners allegedly have been able to go out in the sun twice a week but at the moment of the visit this was again restricted to once a week. The reason given by the prison director was the vacation period such that at the end of the year less state agents would be available to assure the security of the prison.

This situation proves once again that no sufficient measures have been taken by the Rondonian state in order to improve the general detention conditions of the prisoners, nor to improve the security situation in the prison. The standard minimum rules for the treatment of prisoners from the United Nations states in its article 21 that every prisoner has the right to have at least one hour of suitable exercise in the open air. In Urso Branco, the inmates clearly lack sufficient time in the open air.

Prisoners have only limited possibilities to receive visits from their relatives. Visits are limited to once a week. The official timetable for family visits is from 8am till 3 pm. The organization of the visits would be rather chaotic, with both prisoners and their families having to pass through a lot of searching, which makes the time they can see each other shorter. Prisoners said that their families can often only enter the prison at 10 am. Others stated that they only face their families at 1 pm.

The prison does not provide any social or educational activity. The prisoners do not get any book or newspaper to read. But the Criminal Sentence Execution law is clear on this subject. Articles 17 to 21 oblige the prisons to create an educational system. Article 21 of the same law foresees the establishment of a library in the prison. Also clear on the subject as well are the Minimum Rules for the Prisoners of the United Nations (articles 39 and 40). In this way, the prisoners do not have any activity. They can not study or work and are thus completely idle. There is no television, no radio, nothing to stimulate the mind. The inmates are obliged to stay in their overcrowded cells without doing anything.

Furthermore, there is a legal rule that convicted and non- convicted prisoners should be separated. Already in the order dated on August 29, 2002 the Inter-American Court stated:

“there should be a separation among categories, so that “the different categories of prisoners shall be kept in separate (...) parts of institutions taking account of (...) the legal reason for their detention and the necessities of their treatment, and untried prisoners shall be kept separate from convicted prisoners.”¹²

There is moreover no social program for reintegration or re-socialization. Prisoners are not prepared for a life after prison. They are abandoned to a society with little social possibilities.

¹² Order of the Inter-American Court of Human Rights of August 29, 2002, Provisional measures regarding the federal republic of Brazil – Urso Branco Prison case.

The delegation joins on this subject the conclusion of the Inter-American Court in its order of May 2, 2008: *“Finally, the Commission stated that the inmates continue to be subjected to inhumane and degrading detention conditions.”*¹³

E) LACK OF LEGAL AID

Seeing that convicted as well as untried prisoners are not separated in Urso Branco Prison, two types of procedures apply for them. As aforesaid, 45.51 % of the prisoners are in provisional custody while 54.49 % are convicted offenders.

The untried prisoners are under the supervision of the criminal judge. This criminal judge is competent to deal with their criminal case as well as with their detention conditions. The delegation is especially concerned that some of these prisoners said that they have not seen a judge for months. This has been confirmed by the criminal sentence execution judge, Mr. Teixeira. Even if, according to Brazilian legislation prisoners can stay for 81 days in custody before trial, this period is often exceeded. These arbitrary detentions form violations of article 11 from the Universal Declaration of Human Rights and article XXV of the American Declaration of the Rights and Duties of Man, among others.

The criminal execution judge is competent for cases regarding the detention condition of the convicted inmates. The prisoners or their families can make complaints directed to the judge about the detention conditions and public attorneys must assist the prisoners.

Prisoners have, according to articles 15 and 16 of the Criminal Sentence Execution law, the right to legal assistance. However, the prison only has three public attorneys for the prisoners. Three public attorneys are clearly insufficient to guarantee a thorough legal defence of the prisoners. The delegation considers the legal assistance given to the inmates of the Urso Branco prison largely unsatisfactory and states accordingly that the Rondonian state also violates said articles 15 and 16 of the Criminal Sentence Execution law and deprives the prisoners from a fair and equal access to court which is furthermore a violation of articles 7 to 10 of the Universal Declaration of Human Rights and of article XVIII of the American Declaration of the Rights and Duties of Man.

As a clear consequence of the Fact Finding Mission activities, judge Teixeira in January 7, 2009, issued an order for interdiction of Urso Branco prison, which means that no new prisoner would be taken there in the year 2009. This measure was important not only to immediately secure the conditions of the prisoners, but also to spread the condemnation of the serious situation, and to contribute further to a real pressure to the Rondonia government.

¹³ Order of the Inter-American Court of Human Rights of May 02, 2008, Provisional measures with regard to Brazil – Matter of Urso Branco Prison.

3. CONCLUDING VIEWS

The visit of the IAPL delegation confirmed the findings of the Inter-American Commission. The inmates of the prison are abandoned and in dangerous and inhumane conditions.

The state of Rondonia has refused until today to implement the provisional measures repeatedly requested by the Inter-American Court. This urged several actors in Rondonia State to take a position against this flawed policy. Already on July 19, 2008, judge Teixeira directed a report to the “*Corregedor Geral da Justiça de Rondônia Desembargador Sansão Saldanha*” pointing out the deficiencies of the Urso Branco Prison.

On October 7, 2008, the General Attorney of the Republic of Brazil Mr. Antonio Fernando Barros e Silva de Souza requested the Supreme Court to ask for a federal intervention in accordance with article 34, VII, b and article 36, III from the Federal Constitution. On December 3rd, Mrs. Estrela Dalva Campos Amoedo, Mr. Paulo Tadeu Barausse and Mr. Gustavo Dandolin for the “*Comissão Justiça e Paz da Arquidiocese de Porto Velho*” together with Mrs. Sandra Carvalho, Mrs. Luciana Garcia and Mrs. Tamara Melo for “*Justiça Global*” requested the Inter-American Court again to visit Urso Branco Prison. Judge Teixeira stated on December 3rd, 2008 that he would close down the prison since no action was undertaken by the State of Rondonia to improve the detention conditions of the inmates.

III. ATTACKS ON PEOPLE’S LAWYERS

The Fact-Finding Mission had several interviews with the lawyer Ermógenes Jacinto de Souza, who discussed and illustrated the difficulties, threats and attacks suffered by people’s lawyers who, like him, work for the legal defense of the poor peasants.

Atty. Ermógenes lives in Rondonia and most of his time is devoted to working in agrarian cases for poor peasants. In March 2003, he was in the Office of the Federal Public Prosecutor because some of his clients had their land titles threatened by the government on the ground that they were indigenous lands. As his client was giving his brief, the lawyer was verbally attacked by the officer, and so when Ermógenes responded, he received a detaining order and was commanded to be taken to the Federal Police on the basis of a charge against him for Contempt.

Ermógenes also reported that he was charged for Slander in 2005 through the testimony of the police officer Eneidy Dias de Araújo. This officer tried to block the distribution of the journal Peasant’s Resistance, that denounced, among other issues, the abuses of the Police in the region. Atty. Ermógenes and two peasant activists were charged as authors of the alleged slanderous articles. But the essential detail is that the journal was not signed by any one individual.



Photo 10: *Lawyers who work for the legal defense of the poor peasants face many difficulties, threats, and attacks.*
(Photo source: LAPL)

Even more regretful is the argument presented to convict the lawyer in 2006: *“It is deduced from the journal that there are articles inside it, clearly drafted with the language of the lawyer, even considering that this Judicial organ knows the lawyer”* (Process 003050004320 – 1st Judicial Section of the circumscription of Jarú).

The Mission sees this kind of charge an anti-democratic remark and against the principles of due process of law.

Still in 2005, Atty. Ermógenes related he was barred from legal practice by a member of the regional Bar, who talked personally to the then political prisoner Wenderson dos Santos (Russo), telling that his lawyer (Ermógenes) was deceiving him in the legal defence.

In 2008, an order of investigation was filed against Atty. Ermógenes alleging lack of restitution of a suit about an eviction warrant filed by a landlord against the peasants.

The lawyer reported other practices that constitute violations of the legal profession, such as that he received personal threats from armed gunmen in the outskirts of the court.

The 1998 Declaration on Human Rights Defenders says that everyone has the right to “complain about the policies and actions of individual officials and governmental bodies

with regard to violations of human rights and fundamental freedoms” (Art. 9.3.a); “offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms” (Art. 9.3.c); “the right, individually and in association with others, to the lawful exercise of his or her occupation or profession” (Art. 11).

The FFM considers that the reported practices against Atty. Ermógenes constitute infraction of the principles above mentioned.

The UN Special Rapporteur on the situation of human rights defenders, then Mrs. Hina Jilani, visited Brazil in December 2005, and confirmed since then the attacks on human rights defenders, especially in the countryside regions. It appears that the government has not implemented the Recommendations of the report generated, and several attacks on people’s lawyers still happen in many regions of the country.

IV. FINAL CONCLUSIONS AND RECOMMENDATIONS

The IAPL Fact-Finding Mission has noted that serious human rights violations occur in the state of Rondonia and reiterates its consternation about the human rights situation.

The Brazilian state has clearly been found responsible by the Inter-American Court of Human Rights concerning the massacre in Corumbiara and in 2002 regarding the detention conditions in the Urso Branco prison but there are credible reports and evidence that human rights violations seem to be a continuing practice. The Mission urges respect for the human rights of the poor peasants in Rondonia and in other similar places.

These violations, the Mission believes, are directly connected to the social neglect of the population. The local population is excluded from an equal participation in Rondonia’s economy. Since most do not have access to landownership, they are often condemned to unemployment and poverty. The main employers are the *latifundios* themselves, but working conditions are said to be very poor. Poverty and lack of land opportunities oblige Rondonia’s inhabitants to choose between extreme poverty, petty criminality or occupation of land, a political act that has been criminalized by the state of Rondonia.

Confronted with land that is not processed, peasants logically start their activities on this ground. Nevertheless, lots of peasants credibly testified to the IAPL delegation that they are systematically harassed by the police and by the landowners. While the Mission could not check all the cases, it succeeded in gathering information from different sources concerning two issues of harassment. At the same time, the very similar complaints from many peasants indicate a consistent structural problem in the state of Rondonia.

The IAPL Fact Finding Mission observed, listened, viewed and studied first hand, despite obvious practical limitations, the problem in Rondonia from the perspective of the peasant's struggle in Brazil. It notes and acknowledges the continuing advance of the level of organization of the peasants, the unity and courage to confront the basically exploitative

latifundium system, aggravated or even engendered by the lack of a genuine agrarian reform by the Brazilian state and its neglect of the poor peasants.

While the Brazilian government does not appear to have taken any decisive action to resolve the tremendous problem of lack of land for the poor people, the IAPL Fact Finding Mission confirms that there are credible reports and indications that the State oppresses those that struggle for the basic right to the possession and use of land. Indeed, the land problem in Rondonia state is a major source for social inequality, unemployment and poverty.



Photo 12: *The land problem in Rondonia state is a major source for social inequality, unemployment and poverty.*
(Photo source: IAPL)

Urso Branco prison is at the same time a symbol of the general social situation in Rondonia. The way the prisoners of Urso Branco are abandoned during their stay in the prison as well as after the service of their sentence underscores this situation. Most of them get stuck in an endless circle. This is again proven by the particularly high rate of recidivists in Urso Branco Prison (59.70 %).

The IAPL delegation enjoins the bar associations and human rights organizations as well as concerned individuals and entities in Brazil to take into serious account our concern about the cases of imprisoned poor peasants.

The recommendations made by the Inter-American court regarding the issues of Urso Branco and the victims of the Corumbiara massacre should be urgently implemented and the human rights violations taking place in the state of Rondonia should be ended forthwith.

The IAPL Fact Finding Mission at the same time salutes the tireless people's lawyers in Rondonia and in other parts of Brazil who continue to defend and represent the poor peasants against the onslaughts of the *latifundium* system and against the violations of their rights. It stands in firm solidarity with its colleagues who side with the larger majority of the people.



Photo 13: IAPL stands in firm solidarity with its colleagues who side with the masses of poor peasants. (Photo source: IAPL)

The Mission renews its call that steps be taken to protect lawyers and other human rights defenders involved in helping and defending the poor people from harassments and threats and other human rights violations.

The FFM calls on the Rondonian State to exert every effort to protect and uphold the right as well as duty of people's lawyers to render professional, competent and committed legal assistance to those in need of their services without the threat of harassment and attack, Legal representation is a basic right and any attack on the legal profession, most especially those brave few who sacrifice silently to advance the people's political, civil, social, economic and cultural rights, is an affront on the universal right to due process and is an attack on democratic principles.

The people of Rondonia are in a desperate situation. The lack of a proper land reform program causes a social impasse. The high percentage of prisoners in Rondonia State is the result of this policy of neglect.

The IAPL delegation supports the aforementioned initiatives undertaken by civil society and the juridical power and urges the Rondonia State to urgently improve the security situation of the Urso Branco Prison, as well as the material, moral and legal support for the prisoners. At the same time, the IAPL delegation emphasized the need for a structural reform of social policy in the state. A genuine land reform, together with a consistent social aid program can be the only way to give Rondonia's inhabitants justice and a fair and equal access to a decent humane life. #