

# The Public Policy for the Protection of Human Rights Defenders in Brazil<sup>1</sup>

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The implementation of the public policy for the protection of human rights defenders (PPPHRD) has been occurring through a circuitous process in Brazil. Although the federal government has since 2004 supported it formally, there has never been enough political will from state authorities to fully implement it.

Transnational advocacy networks (TANs) as well as international human rights systems played an important role in pushing forward the protection of human rights defenders globally, regionally and, mainly, in Brazil. Due to both external pressures by TANs and human rights mechanisms from the United Nations (UN) as well as the Organization of American States (OAS) (from above) and internal pressures by domestic human rights networks (organized civil society) (from below), Brazil was required to face up the issue of violence against human rights defenders. The PPPHRD was thus launched in 2004 as a result of external and internal politics.

From 2005 on the PPPHRD's formalization process occurs. In fact, Brazil had already taken serious steps towards implementing that policy back in 2004. As I explain elsewhere, this was due to three factors. First, the Lula government dialogued with civil society organizations concerning human rights issues. Second, the Lula government pursued a presidential diplomacy in which human rights became central. Third, Brazil had already ratified the majority of UN and OAS human rights instruments and was truly committed to international human rights law. There should be no surprise, hence, that under the Lula administrations the PPPHRD reached its peak with protection programs operating well at federal and state levels

Despite persistent problems such as limited budget and resources, dependency on other actors to protect human rights defenders, and the absence of a strong legal framework, the Rousseff government was following up on the previous administration's strategies to advance the PPPHRD. Pressures from the Inter-American Commission on Human Rights (external) and the Brazilian Committee of Human Rights Defenders (domestic) made President Rousseff issue the Presidential Decree n° 8.724, of 27 April 2016, formally instituting the Brazilian Program for the Protection of Human Rights Defenders and creating its Deliberative Council.<sup>3</sup> It was her last serious attempt to advance the PPPHRD as, on 31 August 2016, the Congress approved her impeachment – via a *parliamentary coup* – and President Temer rose to power.

The demise of President Rousseff impacted the PPPHRD negatively. This is because President Temer had no concerns for human rights issues and his *Presidencialismo de Coalizão*<sup>4</sup> demonstrated that the federal government had no political will to advance any policy for the protection of human rights defenders. In reality, neither international nor domestic pressure made the Temer government advance the PPPHRD. Consequently, state and non-state violence against human rights defenders continued growing steadily.

From 2018 on the surge of a far-right authoritarian politician made things even worse for the PPPHRD. This is because the Bolsonaro government flirts with neofascism and, thus, has no concerns for human rights.<sup>5</sup> It has not only pursued the destruction of domestic human rights mechanisms,<sup>6</sup> but also prevented organized civil society from participating in decision-making processes regarding the human rights policies.<sup>7</sup> Though the *National Human Rights Council*<sup>8</sup> remains, it has nonetheless little power to advance the PPPHRD effectively.

The interactions among transnational advocacy networks, UN and OAS human rights mechanisms, the Brazilian Committee of Human Rights Defenders, and Brazil's federal government that have happened since

<sup>1</sup> I present here an overall version of events. For a complete analysis of the political history of the PPPHRD see Ulisses Terto Neto, *The Protection of Human Rights Defenders in Latin America: A Legal and Socio-Political Analysis of Brazil* (New York: Palgrave Macmillan, 2018).

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<sup>3</sup> Although it had been operating since 2004, it was only with the advent of this Presidential Decree that the BPPHRD was instituted formally. The BPPHRD is a significant part of the PPPHRD in Brazil.

<sup>4</sup> *Presidencialismo de Coalition*, through which President Temer gave state positions or allocated public funds in exchange for congresspersons' political support.

<sup>5</sup> Época <<https://epoca.globo.com/sociedade/acoes-do-governo-bolsonaro-violaram-direitos-humanos-aponta-mapeamento-24151190>> access 1 April 2020.

<sup>6</sup> Human Rights Watch <<https://www.hrw.org/world-report/2020>> access 1 April 2020.

<sup>7</sup> DW <<https://www.dw.com/pt-br/bolsonaro-exclui-sociedade-civil-de-conselho-de-pol%C3%ADticas-sobre-drogas/a-49707607>> access 1 April 2020.

<sup>8</sup> Justiça Global <<http://www.global.org.br/blog/organizacoes-denunciam-onu-intervencao-e-censura-do-governo-bolsonaro-contra-o-conselho-nacional-de-direitos-humanos/>> access 1 April 2020.

2004 have manufactured political and legal events that led to the partial implementation of the PPPHRD. Yet, the political will worn out completely under the Bolsonaro government as the precarious infrastructure for protection programs to work well that existed previously is now being pulled to pieces.

Considering the authoritarian nature of the Bolsonaro government, it is unlikely that it is going to make any serious effort to advance the PPPHRD.<sup>9</sup> This situation reflects on state governments' political will to implement the PPPHRD. As for April/2020, only six states – Bahia, Maranhão, Ceará, Minas Gerais, Pernambuco and Rio de Janeiro – still have operational protection programs.<sup>10</sup> While there are initiatives in other two states, they are incipient nevertheless. First, there is a human rights NGO that has been selected to coordinate the protection program in Pará, but operative works have not yet commenced due to bureaucracy.<sup>11</sup> Second, the Judiciary has determined that the Executive must implement a protection program in Mato Grosso, but very little has been done in this regard.<sup>12</sup> This is because there is no actual political will from the majority of state governors to really implement the PPPHRD.

Brazil had walked the human rights walk from the re-democratization process (1985-1990) that turned it into a formal constitutional democracy until the parliamentary coup that removed President Rousseff from office in 2016. In this period, Brazil ratified the majority of international human rights treaties and increased its presence as a human rights actor in the global arena. None of which seems to have been enough to guarantee social justice domestically. This is because the ratification of international instruments per se does not necessarily lead to social change or compliance with international human rights law. Much more is needed.

There should be no doubt, thus, that Brazilian human rights defenders must continue their social struggles for democracy, human rights and social justice in order not only to tackle social authoritarianism, but also to build up a national human rights culture. That is why they must be protected by State and organized civil society altogether.

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<sup>9</sup> The federal protection program (BPPHRD) is operated by the human rights NGO *Vida e Juventude*, which signed an administrative accord (convênio administrativo) with the federal government. This administrative accord is going to finish by the end of 2020. The Bolsonaro government has not indicated it will extend it.

<sup>10</sup> Informal talks with members of the *Sociedade Maranhense de Direitos Humanos*, which coordinates the *Program for the Protection of Human Rights Defender* in Maranhão State, and the *National Witness Protection Program* in Brazil.

<sup>11</sup> *ibid.* O Liberal <<https://www.oliberal.com/economia/concurso-e-emprego/secretaria-lanca-edital-para-a-contratacao-de-novos-profissionais-1.176543>> access 1 April 2020.

<sup>12</sup> *ibid.* (n 12). G1 <<https://g1.globo.com/mt/mato-grosso/noticia/2019/08/02/programa-de-protecao-para-testemunhas-e-defensores-de-direitos-humanos-e-implantado-em-mt.ghtml>> access 1 April 2020.