



PROTECTING HUMAN RIGHTS DEFENDERS IN BRAZIL
A Panoramic View of Existing Popular and Institutional Protection Experiences

PROTEGENDO OS(AS) DEFENSORES(AS) DOS DIREITOS HUMANOS
NO BRASIL

Uma visão panorâmica das experiências de proteção popular e institucional existentes

PROTEGIENDO LOS(LAS) DEFENSORES(AS) DE LOS DERECHOS HUMANOS
EN BRASIL

Una visión panorámica de las experiencias de protección popular e institucional existentes

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Abstract

Human rights have advanced since Brazil's re-democratization, but social authoritarianism prevented more advancements and paved the way for the extreme right to grow stronger lately. Hence, the country's resumption of the path towards democracy and human rights depends on structural changes, for which the work of human rights defenders (HRDs) is paramount. As HRDs question the *status quo* and challenge populist anti-democratic practices, they have become targets of violence perpetrated by dominant groups and, thus, they need effective protection in Brazil. But *what are the alternatives for the protection of HRDs in Brazil?* To answer this question, the paper sheds light not only on HRDs' activities in promoting democracy or fighting for human rights and exposing and remedying the adverse effects of populist undemocratic activities, but also on the corresponding state and non-state violence they suffer. In addition, it conducts an analysis of the existing popular and institutional protection experiences in Brazil in order to emphasize the significance of organized civil society and State protecting HRDs for strengthening democracy and establishing a human rights culture in Brazil.

The final section explains what the better alternatives for the protection of HRDs in Brazil are and, as a result, calls for organized civil society and State to play their role in implementing them effectively.

Keywords: Human Rights Defenders. Violence. Popular Protection. Institutional Protection. Brazil

Resumen

Los derechos humanos han avanzado desde la redemocratización de Brasil, pero el autoritarismo social ha impedido mayores avances y allanado el camino para que la extrema derecha se fortalezca recientemente. Por lo tanto, la reanudación del camino hacia la democracia y los derechos humanos en el país depende de cambios estructurales, para los cuales el trabajo de los y las defensores/as de los derechos humanos (DDHs) es primordial. A medida que los DDH cuestionan el status quo y desafían las prácticas populistas antidemocráticas, se han convertido en objetivos de la violencia perpetrada por grupos dominantes y, por lo tanto, necesitan protección efectiva en Brasil. Pero ¿cuáles son las alternativas para proteger a los defensores de derechos humanos en Brasil? Para responder a esta pregunta, el documento arroja luz no sólo sobre las actividades de los DDH en la promoción de la democracia, la lucha por los derechos humanos y la exposición y remediación de los efectos adversos de las acciones populistas no democráticas, sino también sobre la correspondiente violencia estatal y no estatal. afirman que los DDH sufren. Además, realiza un análisis de las experiencias existentes de protección popular e institucional, con el fin de enfatizar la importancia de la protección de los DDH por parte de la sociedad civil organizada y del Estado para fortalecer la democracia y establecer una cultura de derechos humanos en Brasil. La sección final explica cuáles son las mejores alternativas para la protección de los DDH en Brasil y, como resultado, llama a la sociedad civil organizada y al Estado a desempeñar su papel en su implementación efectiva.

Palabras clave: Defensores/as de Derechos Humanos. Violencia. Protección Popular. Protección Institucional. Brasil

Resumo

Os direitos humanos avançaram desde a redemocratização do Brasil, mas o autoritarismo social impediu mais avanços e abriu caminho para que a extrema direita se fortalecesse ultimamente. Assim, a retomada do país rumo ao caminho da democracia e dos direitos humanos depende de mudanças estruturais, para as quais o trabalho de defensores/as dos direitos humanos (DDHs) é fundamental. À medida que DDHs questionam o *status quo* e desafiam as práticas antidemocráticas populistas, eles/as se tornaram alvos de violência perpetrada por grupos dominantes e, portanto, precisam de proteção eficaz no Brasil. *Mas quais são as alternativas para a proteção de defensores/as dos direitos humanos no Brasil?* Para responder a esta questão, o documento lança luz não só sobre as atividades de DDHs na promoção da democracia, na luta pelos direitos humanos e na exposição e remediação dos efeitos adversos das ações populistas não democráticas, mas também sobre a correspondente violência estatal e não estatal que DDHs sofrem. Além disso, realiza uma análise das experiências existentes de proteção popular e

institucional, a fim de enfatizar a importância da proteção de DDHs pela sociedade civil organizada e pelo Estado para o fortalecimento da democracia e o estabelecimento de uma cultura de direitos humanos no Brasil. A seção final explica quais são as melhores alternativas para a proteção de DDHs no Brasil e, como resultado, apela à sociedade civil organizada e ao Estado para que desempenhem o seu papel na sua implementação eficaz.

Palavras-chave: Defensores/as dos Direitos Humanos. Violência. Proteção Popular. Proteção Institucional. Brasil

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1. Introduction

As a post-colonial country, Brazil is still facing social authoritarianism and its main characteristics such as poverty, inequality, exclusion and violence (TERTO NETO, 2017; TERTO NETO & COSTA, 2023). Its path towards establishing a constitutional democracy and building up a human rights culture has been a circuitous one, with more setbacks than advancements. It follows that Brazil's structures must be deeply changed, for which the work of human rights defenders (HRDs) is of crucial significance. As HRDs question the *status quo* and challenge populist anti-democratic practices, they have become targets of state and non-state violence perpetrated by dominant groups and, thus, they need effective protection. Nonetheless, what can be done to really protect HRDs? What are the alternatives for the protection of HRDs in Brazil?

Undertaking a critical approach, we argue that there are two existing alternatives. There is the popular protection that has historically been conducted by organized civil society (PROJETO SEMENTES DE PROTEÇÃO, 2022). And there is the institutional protection that has (reluctantly) been implemented by the State as public policies for the safeguarding of HRDs, communicators and environmentalists (TERTO NETO, 2018).¹ In the second section we provide a brief analysis of the recurrent problematic of Brazil. The analysis proceeds from the assumption that the country is still deeply marked by social authoritarianism, which causes continuous human rights violations. In the third section, we shed light on HRDs themselves, that is, we explain who they are, what they do and why they must be protected. Further, in the fourth section, we conduct an analysis of the existing alternatives for the protection of HRDs, that is, the popular protection and the institutional protection. Finally, in the fifth section, we present a brief conclusion.

¹ Human rights defenders are taken here as anyone who is doing something for the promotion, protection and/or defence of human rights peacefully, which means communicators and environmentalists can be designated as human rights defenders. For more details, see Terto Neto (2018).

2. The Recurring Problematic of Brazil

To understand the role HRDs play in the Brazilian society and which the better alternatives to protect them are, it is first necessary to comprehend that HRDs are placed in a very complex, legal, socio-political, cultural and economic context that can be explained with the help of the concept developed by Evelina Dagnino (1994), called “social authoritarianism”. According the author, social authoritarianism would lead to more poverty, social exclusion, inequality and violence, characteristics that have always been together with the Brazilian development. As the same elites (or replaced by groups with the same interests) were and are in control (dominants), they want to keep the unchanged social structures and avoid any changes taking place in the society’s conformation.

Indeed, Brazil has seen some improvements regarding the quality of its democracy and of its citizen’s lives, but those improvements have not been sufficient to guarantee that the entire Brazilian population possess true citizenship. Rise, Ropp and Sikkink (1999) designed a theory in which it would be possible to observe if a State is becoming more human rights aware, complying with its obligations regarding human rights international treaties and talking the human rights law talk. They named it “spiral model”. By this model one can analyze if some State is more open to democratic process or if it has some authoritarian features, for instance. Such a study can help observe if the population in the country in question is improving its life quality, based on the State being walking the human rights walk or not at all.

The spiral model has five phases. In the first phase, “repression”, the State is conducting repressive actions against its citizens and the internal opposition is too weak to perform challenges to the government (RISSE; ROPP; SIKKINK, 1998, p. 22). In the second, “denial”, the target State receives international interest and their general answer is to deny the accusations (RISSE; ROPP; SIKKINK, 1998, p. 22-24). After, in the phase called “tactical concessions”, if the international pressure is effective, the country starts to seek “cosmetic changes” in order to pacify their relationships. Permanent reforms are not expected, but the changes tend to fortify the domestic opposition and engender them more support (RISSE; ROPP; SIKKINK, 1998, p. 25-28).

The “prescriptive status” is the name of the fourth phase. In this moment, even if the State’s is still violating the human rights, these norms are no more controversial and the ideas based in values are now earning prescriptive status (RISSE; ROPP; SIKKINK, 1998, p. 29-30). Finally, the last phase – “rule-consistent behavior” – takes time to happen and only occurs when the governments really adopted lasting behaviors regarding human rights (RISSE; ROPP; SIKKINK, 1998, p. 31-33). Tertto Neto (2018) employed this model in order to verify Brazil’s path towards human rights. From his study we can underline some findings that will help us understand why the social authoritarianism is still a reality in Brazil.

Tertto Neto (2018, p. 59-61) inserts the “repression” phase during the beginning of the military dictatorship that took place between 1964 and 1985 in Brazil. Tertto Neto (2018, p. 59) explains that the operation “clean-up” (*“operação limpeza”*), initiated after General Castelo Branco (1964-1967) rose to power, consisted in “illegal arrests, torture, and cruel, inhuman or degrading treatment or punishment”. This led to the weakening of the domestic opposition, dissolution of political parties and suspension of political rights. The repression reached its next level with General Emílio Garrastazu Médici (1969-1975), being the most oppressive and brutal period during the dictatorship: “HR violations perpetrated by state agents turned out to be a regular occurrence since the security apparatus made use of illegal arrests, torture, killings, and forced disappearances to strengthen the authoritarian regime” (TERTO NETO, 2018, p. 60).

The global spotlight turned to Brazil when its government aspired to acquire nuclear technology, which annoyed the United States of America (USA). However, it made General Geisel (1974-1979) receive more support from the military, since he was promoting a “nationalist rhetoric”. Jimmy Carter (1997-1981), President of the USA at the time, conducting a foreign policy attentive to human rights² started criticizing Brazil’s behavior. Geisel’s administration opted to answer those criticisms at the opening of the 32nd Session of the United Nations (UN) General Assembly in 1977, but being evasive. His arguments were: 1. nuclear weapons race and the inequality

² “His policy of human rights sought to create a post-Cold War foreign policy that changed the fundamental nature of American relations with the Third World while still protecting essential American interests” (SCHMITZ; WALKER, 2004, p. 113).



prevent the realization of HR; 2. HR problems are of exclusive competence of the State to handle it in their jurisdiction (TERTO NETO, 2018, 61-62).

Following the USA's and NGO's pressure, the Brazilian's opposition was getting stronger and more organized. Even the business sector, that initially supported the dictatorship, was now part of the discontent voices. In this way, reforms were being made: the political system was transformed from a two-party to a multiparty model; important resistance voices were liberated to return to Brazil; the dictatorship government authorized the visit of HR NGO's. Terto Neto (2018) considers that those movements were "tactical concessions", since the "opening" process performed to institute democracy in Brazil was been controlled by the military. For example, they conspired for the presidential elections be indirect and not direct, that is, the Brazilian citizens wouldn't vote for their candidate, instead an Electoral College would be formed for that purpose. At that moment, the transition to the democracy was unstoppable and the military dictatorship came to its end.

In the next phase, these concessions are not anymore tactical or cosmetic ones. Now, they must be seen in the legislations and spread through the institutions. What represents most those changes is the 1998 Brazilian Constitution, which brought several advancements regarding human rights and social justice. Brazil also started signing and ratifying several international HR treaties, concerned about its reputation worldwide. In his study, Terto Neto (2018, p. 66-76) analyzed the governments ranging from José Sarney (1985-1990) to Michel Temer (2016-2019)³, showing their movements in direction to make HR acquires prescriptive status, so, the fourth phase of the model.

Examining Terto Neto's (2018) findings, first he considers that Brazil hasn't reached a behavior rule-consistent with the HR norms and legislations. Second, he considers that what led Michel Temer to power was a parliamentary coup, proving that nowadays Brazil is still connected with its authoritarian structures and practices (TERTO NETO, 2018, p. 76). Third, Terto Neto (2019, p. 76) explains that the spiral model has limitations to describe contemporary Brazil and its structural problems (RISSE; ROPP; SIKKINK, 2013). For this reason, although Brazil has returned itself to a

³ During this period Brazil had seven Presidents: José Sarney (1985-1990); Fernando Collor (1990-1992); Itamar Franco (1992-1995); Fernando Henrique Cardoso (1995-2003); Luiz Inácio Lula da Silva (2003-2011); Dilma Rousseff (2011-2016) and Michel Temer (2016-2019).

democracy, promulgated a vanguardist Constitution, signed and ratified several HR treaties, the context in which HRDs conduct their actions nowadays is not receptive or peaceful, since it is circumscribed in a structure marked by poverty, exclusion, inequality and violence. We argue that the “social authoritarianism” explains this structure.

The analysis of Brazilian social structures demands that we return to the State’s formation. This examination shows that after the Portuguese invasion, what followed was a mass homicide of the native indigenous peoples. After, the Portuguese established an enslavement system of the African people that lasted for centuries. The echoes of those historical violations reverberate through Brazilian society today. Data retrieved from the Brazilian Institute of Geography and Statistics (IBGE)⁴ shows that in 2021, 69% of the managerial positions were occupied by white people; while 29.5% were occupied by black (black and *parda*) people. The ownership of big rural lands (more than ten thousand hectares) demonstrated that 79.1% belonged to white people and 19% to the black part of the population. Moreover, violence statistics underscore stark differences: the homicide rate per 100,000 people stands at 11.5 for the white population, 21.9 for black individuals, and 34.1 for the *parda* community⁵.

Regarding indigenous peoples, they not only suffer from discrimination, prejudice and less access to a better quality of life, as they also have concerns connected with valorization of their style of life, environmental issues and defense of their lands. Recently, the indigenous peoples in Brazil are facing tough moments regarding their rights. Following journalistic pieces and reports – in January 2023 – that demonstrated how the Yanomami people⁶

⁴ The methodology used by the IBGE – and described in its Census Taker Manual (*Manual do Recenseador*) volume 2, from 2020 – is the auto declaration, being the person that indicates its ethnic-racial identification. In this way, the question is based in color and race, not just in one or another. The citizen can choose between: white; black; yellow (oriental origin); “*parda*” (is the mixture of two or more options – described like that in the Census Taker Manual); and, indigenous. It is common in Brazil that people with black origins choose the *parda* option. For this reason, when we refer to black people during this article, we are referring to the classification black together with the classification *parda*. For example, data from the study “*Pesquisa Nacional por Amostra de Domicílios Contínua*”, released in 2022, demonstrates that the black population in Brazil represents 10,6% of the population and the *parda* people, 45,3%. So, during the article when we refer to black people in Brazil, we are remitting to this 55,9% of the Brazilian population. Available at: https://biblioteca.ibge.gov.br/visualizacao/livros/liv102004_informativo.pdf. Last access: 17 nov. 2023. In the 2022 census, it was the first time since 1991 that the majority of the Brazilian population declared themselves as *parda*, 45.3%, while 43.5% identified as white and 10.2% as black. Available at: <https://agenciadenoticias.ibge.gov.br/agencia-noticias/2012-agencia-de-noticias/noticias/38719-censo-2022-pela-primeira-vez-desde-1991-a-maior-parte-da-populacao-do-brasil-se-declara-parda>. Last access: 22 dec. 2023.

⁵ All this data was retrieved from the second edition of the *Desigualdades Sociais por Cor ou Raça no Brasil* (Social Inequalities by Color or Race in Brazil) issued by the IBGE. Available at: https://biblioteca.ibge.gov.br/visualizacao/livros/liv101972_informativo.pdf. Last access: 17 nov. 2023.

⁶ The Yanomami people are indigenous organizations that live in the North of the Amazon Rainforest between Brazil and Venezuela. Their lands measure nearly 192 thousand square kilometers and their population in Brazil was estimated in 28 thousand individuals. Available at: <https://www.nationalgeographicbrasil.com/historia/2023/01/quem-sao-os-yanomami-e-qual-e-o-territorio-que-eles-ocupam-na-amazonia>. Last access: 21 nov. 2023.

were living, the freshly elect Luiz Inácio Lula da Silva's government decided to visit the region and examine their conditions. What the administration found was many Yanomami people suffering with malnutrition; bad access to food, health and hygiene; people who have died with evitable diseases; and thousands of cases of malaria (SOUZA, 2023, s.p.).

One of the principal reasons of this situation is the illegal mining. The illegal miners break into the indigenous lands, searching mostly for gold, and, in the process, they pollute the rivers with mercury (contaminating the soil, the fish and the water) and, by creating small lakes, they facilitate the propagation of the mosquito that transmit malaria. As a result, in 23 May, 122 deaths were registered in the Yanomami land, being 54% of them children and teenagers. "The data shows that of the deaths, 54 were due to infectious diseases, 24 due to external causes, 16 due to malnutrition, 16 due to other causes, 8 neonatal deaths and 4 diseases of the digestive system"⁷.

Another threat the indigenous peoples are suffering is the discussion concerning a so-called "time framework (or time limit) thesis". This thesis advocated for the idea that the indigenous peoples only had the right to establish themselves in the territory they already occupied in 5 October 1998, when the Brazil's current Constitution was promulgated. The thesis reached the Brazilian Supreme Court (STF) due to a discussion regarding the ownership of some lands in the state of Santa Catarina. In 2023, the STF judged this appeal and in 21 September the Court ruled, by 9 votes against 2, that this date "can't be used to define the traditional occupation of the land by those communities" (STF, 2023, s.p.).

The pressures favorable to the time framework thesis were so intense, that while the subject was being judged in the STF, a Bill (PL 2.903/2023) was being discussed in the Brazilian Parliament. In 29 September 2023, the Brazilian Senate voted favorable for the project, which was already approved by the Chamber of Deputies. However, the left-wing President, Lula, decided to veto part of the law concerning the thesis. The veto was analyzed by the Parliament, and they decided to overthrow it⁸. As the Supreme Court already

⁷ "Os dados apontam que das mortes, 54 foram por doenças infecciosas, 24 por causas externas, 16 por desnutrição, 16 por outras causas, 8 óbitos neonatal e 4 doenças do aparelho digestivo" (no original). Available at: <https://g1.globo.com/rr/roraima/noticia/2023/05/23/terra-yanomami-registra-122-mortes-de-indigenas-em-quatro-meses-de-emergencia-na-saude-54percent-sao-de-criancas-e-adolescentes.ghtml>. Last access: 21 nov. 2023.

⁸ Available at: <https://www.camara.leg.br/noticias/1026508-congresso-derruba-veto-ao-marco-temporal-das-terras-indigenas>. Last access: 21 dec. 2023.

considered this thesis unconstitutional, the next moves regarding this process are not totally clear.

By presenting those data and information, we have illustrated that Brazil has traversed a long way regarding human rights, social rights, economical improvements and better legislations regarding its citizens. Nonetheless, this journey has not been enough to overcome social authoritarianism and prevent HR violations. Discrimination, inequality, violence, exclusion, and poverty that part of the population suffers are still a major problem for this country.

Brazil is a great contradiction. The International Monetary Fund (IMF) estimates that Brazil is the 9th economy in the world, ahead of countries like Canada, Russia, Spain, Netherlands and Sweden⁹. However, this wealth is not equally distributed among the population. There are several studies dedicated to show this inequality. The World Inequality Report 2022 (CHANCEL; et al, 2022, p. 187) demonstrated that:

Brazil is one of the most unequal countries in the world: the top 10% captures 59% of total national income while the bottom half of the population takes only around 10%. Inequalities in Brazil are higher than in the US, where the top 10% captures 45% of total national income, and China, where it is 42%. [...] Income inequality in Brazil has long been marked by extreme levels. Available estimates suggest that the top 10% income share has always been higher than 50%. [...] In 2021, the poorest half of the population does not own wealth (compared with 6% in Argentina, for example), whereas the top 1% of the population owns about half of total wealth.

A study produced by Fundação Getúlio Vargas (FGV) based on income tax data shows the discrepancy between regions and states in Brazil (NERI, 2023). The capital with the biggest average income is Florianópolis: R\$ 4,215.00. And the capital with the smallest average income is Macapá: R\$ 980.00. The Brazilian average is R\$ 1,311.00. That is, Florianópolis possesses an average income more than four times bigger than Macapá. Finally, the Report from the Brazilian Observatory of Inequalities (Relatório do Observatório Brasileiro das Desigualdades) concluded (CEBRAP, 2023, p. 4-7):

⁹ Available at: <https://www.imf.org/external/datamapper/NGDPD@WEO/OEMDC/ADVEC/WEOWORLD>. Last access: 21 nov. 2023.



The gap between rich and poor is huge, even taking into account that official indices do not capture the full magnitude of the richest's wealth. [...] Black people and women are the least represented groups in decision-making bodies and the most affected by all dimensions of inequality. [...] The lack of minimum conditions of dignity affects the poorest from birth. A significant part of the population still lives in precarious or at-risk areas and are at greater risk of death due to the lack of adequate health services. [...] Far away from the objective seek by the Constitution, inequality between regions and states is still striking.

Reflecting on the aforementioned information, it is hard to think that IBGE considered that the inequality in Brazil reduced and reached its smallest level in 2022, bearing in mind their historical series. The analysis made with the GINI index¹⁰ demonstrated that in 2022 the index was 0.518, while it was 0.544 in 2021 and 2019¹¹. In this way, we can see how the inequality is a structural characteristic of the Brazilian society. So, “despite advances in recent decades, this reality remains, and has been aggravated by right-wing populism” (TERTO NETO, 2020, p. 47-48).

The improvements in our democracy and in regard to respect for HR haven't impacted the wealth distribution around the country and, on the contrary, they have maintained the structure responsible to allow that 10% of its population possess 50% of the wealth, for example. This is demonstrated by Terto Neto (2017, p. 293): “although Brazil has opened itself up to international organs' criticism and cooperation on human rights issues, violations of human rights persist countrywide. Democracy and the rule of law per se have not yet been enough to bring about structural change”.

Dagnino (1994) argues that social relations in Brazil are marked by some unequal and hierarchical organization, being its most visible aspects the economic inequality, the misery and the hunger. This type of organization can be called social authoritarianism. She explains that social authoritarianism is deeply rooted in the Brazilian culture – having aspects of social class, race and gender – and expresses itself by creating different types of people, who occupy different places in the Brazilian society. We believe that the data

¹⁰ “The Gini Index, created by the Italian mathematician Conrado Gini, is an instrument to measure the degree of income concentration in a given group. It points out the difference between the income of the poorest and the richest. Numerically, it varies from zero to one. The value zero represents a situation of equality, that is, everyone has the same income. The value one is at the opposite extreme, that is, one person holds all the wealth”. Available at: https://www.ipea.gov.br/desafios/index.php?option=com_content&id=2048:catid=28. Last access: 21 nov. 2023.

¹¹ Available at: <https://www.correiobraziliense.com.br/economia/2023/05/5093783-desigualdade-no-brasil-e-a-menor-nos-ultimos-10-anos-aponta-ibge.html>. Last access: 21 nov. 2023.

presented in the last paragraphs have well illustrated Dagnino's (1994) arguments. Tertto Neto (2017, p. 295) goes further in this analysis:

This is because current Brazilian cultural politics contains a set of beliefs and values that disregard human rights standards. They represent the establishment and, as such, they reproduce beliefs and values that reiterate the current scenario of exclusion, poverty, inequality and violence or, simply put, social authoritarianism.

In this way, Dagnino (1994) will advocate for a new type of citizenship, one that works with the idea of the right to have rights; requires active social agents and creates a citizenship from the bottom to the top; enlarges the citizenship notion going beyond the legal-formal type; transforms the social practices rooted in the society, understanding that the simple recognition of the citizenship by the State does not conclude the fight for a true citizenship; and surpasses the belonging feeling to some political system, but instead seeks the right to participate in what defines and constitutes the system itself. A new type of citizenship because in Brazil great part of the population don't benefit equally from the legal rights, the access to public services and opportunities. That is, not every citizen enjoys true citizenship. Dagnino et al. (1998, p. 22), then, will connect the citizenship with the social authoritarianism:

In this sense, the construction of citizenship points to the construction and dissemination of a democratic culture, conceived as an alternative to the hierarchical and unequal organization of all social relations, based predominantly on criteria of class, race, and gender: what has been called social authoritarianism.

To Dagnino (1998), to construct this citizenship is a process that requires the transformation of the social practices deeply rooted in the Brazilian society. "In this sense, the elimination of social authoritarianism and its replacement by an egalitarian code that organizes social relations as relations between subjects with rights would be a fundamental challenge for the implementation of citizenship and the realization of democracy" (DAGNINO, 1998, p. 45). Therefore, it should be stressed that HRDs' actions take place in a hostile society and that they fight for deconstructing the columns that sustains the current social authoritarian structures of the

Brazilian society. They fight to transform the social practices so rooted in the society, that are not even questioned by some people.

And, in the process, they are simultaneously forging a new type of citizenship. This is connected with Dagnino's (1998, p. 27) discourse: "The process of building citizenship as an affirmation and recognition of rights is, especially in Brazilian society, a process of transformation of social practices rooted in the society as a whole". Thus, mostly in nowadays, HRDs also expose and remedy the adverse effects of populist undemocratic activities by playing "a significant role in this collective socio-political process, for they are frontrunners in the social struggles for democracy and human rights" (TERTO NETO, 2017, p. 293). This is one of the reasons why HRDs must be studied, comprehended and protected. In the next topic we delve into considerations concerning HRDs to pursue a deeper understanding of this group. Subsequently, in the final section, we will propose enhanced alternatives for their protection.

3. Human Rights Defenders

3.1 Who they are

Activists, demonstrators, professionals, workers, monitors, militants, supporters and so forth. These are some of the terms used to describe people who support, fight or defend some cause, usually a collective cause. These people could fight for several distinct themes, ranging from environmental issues to better taxation. The *human rights defender* concept brought a wide umbrella term to be used in order to refer to people who act promoting or protecting HR. Even though there is no explicit reference to the term "HRD" throughout the 1998 "Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms"¹², it is this declaration – approved by the UN General Assembly – that primarily used the concept in order to explain who HRDs are. Its Article 1 was used for this purpose, since it states: "Everyone has the right, individually and in association with others, to promote and to strive for the protection and

¹² Available at: <https://www.ohchr.org/sites/default/files/Documents/Issues/Defenders/Declaration/declaration.pdf>. Last access: 21 nov. 2023.



realization of human rights and fundamental freedoms at the national and international levels”.

After, a document issued by the Office of the United Nations High Commissioner for Human Rights “has been prepared with the aim of supporting human rights defenders in their invaluable work” (UN, 2004, p. 1). In 2004 the Office issued the Fact Sheet n° 29¹³: “Human Rights Defenders: Protecting the Right to Defend Human Rights”. The Commissioner for HR seeks to explain and give considerations about human rights issues under big interest with the Fact Sheets. About a HRD, the Fact Sheet n° 29 explains (UN, 2004, p. 2):

“Human rights defender” is a term used to describe people who, individually or with others, act to promote or protect human rights. Human rights defenders are identified above all by what they do and it is through a description of their actions [...] and of some of the contexts in which they work [...] that the term can best be explained. [...] To be a human rights defender, a person can act to address any human right (or rights) on behalf of individuals or groups. Human rights defenders seek the promotion and protection of civil and political rights as well as the promotion, protection and realization of economic, social and cultural rights.

The Fact Sheet n° 29 brings a section dedicated to elucidate “who can be a HRD”. It states that there is no specific definition – that is, it is a broad categorization – and refers to individuals or groups; intergovernmental, non-governmental, government officials, members of the private sector; paid or non-paid actors for their actions regarding HR; can be of any gender, age or part of the world; and be located in the largest cities of the world or acting in their local communities; as long as they contribute “to the effective elimination of all violations of HR and fundamental freedoms of peoples and individuals”. This last quote is presented in the fourth paragraph of the 1998 Declaration previous mentioned. Bennett et al. (2015, p. 888) explain that the term HRD:

has been used to refer to a broad range of individuals and collectives promoting or protecting human rights, including lawyers, journalists, activists, trade unionists, members of community-based organisations, people in social movements and staff of human rights organisations involved

¹³ Available at: <https://www.ohchr.org/en/publications/fact-sheets/fact-sheet-no-29-human-rights-defenders-protecting-right-defend-human>. Last access: 21 nov. 2023.

in different work in very different contexts. It has been used to refer to those less obviously characterised as rights defenders, including protesters, teachers, students, social workers, health care professionals, community workers, sexual minorities, religious minorities and peace builders, amongst others. The term 'human rights defender' tends to be invoked when those engaged in rights-related work are threatened or put at risk for what they do – it is a way of legitimising, bringing visibility to and reiterating their right to do this type of work.

However, the HRD is a wide concept that requires no further qualification. Fact Sheet n° 29 (UN, 2004, p. 9-10) explains that HRDs have some responsibilities. Those commitments are connected with the minimum standards required for HRDs to follow. First: HRDs must accept the whole Universal Declaration of Human Rights¹⁴, i.e., they can not comply with the rights of the men and deny equal rights for woman. Second: their actuation and argumentation must concern the scope of HR, they don't take a side in a dispute, but defend a HR problematic. And, third: they must act peacefully.

To approach the HRD conceptualization to the Brazilian reality, it's pertinent to examine some definitions presented by International Organizations and by the Brazil's government. Regarding the Organization of American States (OAS), Terto Neto (2016, p. 377) says that "there is no instrument produced by the OAS that specifically regulates the rights of human rights defenders". Even though, the organization acknowledges its existence and even act to protect this group, urging member States to protect their activities and work. Looking at some decisions of the Inter-American Court of Human Rights, we identify this recognition.

For example, Terto Neto (2016, p. 277) indicates the cases *Heliodoro Portugal versus Panama* and *Myrna Mack Chang versus Guatemala*, in which the Court recognized the "importance of the work done by human rights defenders and that the State has a duty to protect them". Also, the OAS has a Rapporteurship on Human Rights Defenders and Justice Operators since 2011. Basically, "the Office of the Rapporteur provides support in the specialized analysis of petitions presented to the Inter-American Commission regarding alleged violations of the human rights of human rights defenders and of those who have a rol in the justice system (justice operators)"¹⁵. About

¹⁴ Available at: <https://www.un.org/en/about-us/universal-declaration-of-human-rights>. Last access: 28 nov. 2023.

¹⁵ Available at: <https://www.oas.org/en/IACHR/jsForm/?File=/en/IACHR/r/dddh/funciones.asp>. Last access: 28 nov. 2023.



the OAS system of protection to HRDs, Kleeman (2020, p. 34) says that in this region:

since 1999, annual resolutions regarding HRDs have been adopted. In the 2001 resolution, the OAS's General Assembly called on the Inter-American Commission on Human Rights (IACHR) to monitor the situation of HRDs, leading to the establishment of the IACHR Human Rights Defenders Unit. The Inter-American Court on Human Rights, as the main judicial body for human rights protection in the region, also dealt with cases regarding the work of HRDs and the violation of their rights.

An ordinance issued by the former “Ministry of Women, Family and Human Rights”¹⁶ in 22 February 2022, aiming to establish the regulation about the Protection Program for Human Rights Defenders, Communicators and Environmentalists (PPHRDCI), defined what would be considered a HRD. The Ordinance – *Portaria* n° 507¹⁷ – establishes:

- I – every individual, group or body of society that promotes and defends universally recognized human rights and fundamental freedoms and, due to their actions and activities in these circumstances, finds themselves in a situation of risk, threat or vulnerability;
- II – communicator with regular involvement in social communication activities, whether in the performance of a professional activity or in a personal activity, even if unpaid, to disseminate information that aims to promote and defend human rights and that, as a result of acting towards this objective, are experiencing situations of risk, threat, vulnerability or violence that aim to embarrass or inhibit their action towards this end;
- III – environmentalist who works to defend the environment and natural resources, as well as guaranteeing access and enjoyment of these resources by part of the population, and as a result of this action, is experiencing situations of risk, threat, vulnerability or violence that aims to constrain or inhibit its action towards this end.

As demonstrated by the given examples, some verbs and words constantly appear: act, do, work, contribute, defend, promote, actions, activities. It shows that a HRD is defined by what they do, by what they

¹⁶ The Ministerial composition is not permanent in Brazil. They may suffer alterations seeking to satisfy the government desires in certain moment. This Ministry is now, 2023, called “Ministry of Human Rights and Citizenship”.

¹⁷ Available at: <https://www.gov.br/mdh/pt-br/acao-a-informacao/institucional/portarias/portaria-no-507-de-21-de-fevereiro-de-2022>. Last access: 28 nov. 2023.

perform in the society. As Tertó Neto (2018, p. 32) explains, the action is what qualifies a group or person as a HRD:

It is thus “the element of action that is of crucial importance for the concept of HRDs” (Silva, 2014, p. 49). The element of action qualifies any individual, group or entity as HRDs as long as they are doing something for the promotion and defense of HR. Hence, the HRDs condition “derives mainly from the activities that the person performs and not from any other types of circumstances related to the payment of their services or membership to any organization of collective’, be it governmental or non-governmental (Juarez, 2016, p. 33).

By “action” we can understand the move of promoting HR. We follow to next subtopic understanding that the HRD concept was born in UN documents and afterwards followed by international and domestic institutions. The definition is intended to be a large one, encompassing every person who acts to promote and defend HR, professionally or otherwise. In the next topic we will investigate what those HRDs do, that is, how they promote and defend HR.

3.2 What they do

As we explained before, it is the element of action that characterizes a HRD, but what are those actions? It’s the promotion and protection of HR. The Fact Sheet nº 29 (UN, 2004, p. 2-3) states that HRDs can be involved in actions related to: summary executions; torture; female genital mutilation; discrimination; forced evictions; toxic waste; rights to life, food and water; adequate housing; children’s rights; development; migration and so forth. Brysk (2014, p. 341) presents some actions HRDs may execute:

raise consciousness and bring attention to government repression, forgotten populations and new forms of abuse. More specifically, they monitor and document such abuse and transmit relevant information to national and international enforcement mechanisms. At the next level, human rights activists may inspire or participate in government or international investigations and/or transitional justice. Human rights defenders may demand, guide or participate in accountability and human rights training for military and police forces.

Regarding HRDs who work at local or national level – the majority of them –, they are usually charged with ensuring the respect for HR in certain place. Others, who execute their activities at regional or international level may: “monitor a regional or worldwide human rights situation and submit information to regional or international human rights mechanisms” (UN, 2004, p. 3). The document further elucidates that a portion of their efforts aligns with the 'spiral model,' involving engagement with international mechanisms to reinforce domestic endeavours.

HRDs can execute technical activities such as: investigate, gather information, publish reports and findings, and use lobbying as a way to publicize information and to talk with key politicians. The measures executed to support victims of HR violations also “help to end ongoing violations, prevent their repetition and assist victims in taking their cases to courts” (UN, 2004, p. 3), and also provide legal advice, counselling and rehabilitation support. Other type of actuation is to exert pressure at the governmental bodies to guarantee that the State implements and respects its international HR obligations. Additionally, they can work as partners with the government providing HR training for prosecutors, judges, the police, with the purpose of strengthen the State’s capacity to comply with HR.

Looking to support better governance and government policy, HRDs can act as government’s inspectors: supervising institutional statistics and data as well as publicizing them. On the other side, they can work together with citizens to demand the end of corruption, better levels of democracy and teach the population on how they can contribute to reach a better administration (better governance). Many actions executed by NGOs are seen as “development actions”. However, these activities aimed at establishing housing, healthcare, feeding, “much as that of other human rights defenders, is central to respect for and protection and achievement of human rights standards, and they need and deserve the protection given to their activities by the Declaration on Human Rights Defenders” (UN, 2004, p. 5). Finally, HRDs may provide HR education so much for professional groups (judges, lawyers, soldiers) as for broader crowds (schools, universities, television). The Fact Sheet (UN, 2004, p. 5) summarizes the HRDs actuation:

In summary, gathering and disseminating information, advocacy and the mobilization of public opinion are often the most common tools used by

human rights defenders in their work. [...] they also provide information to empower or train others. They participate actively in the provision of the material means necessary to make human rights a reality—building shelter, providing food, strengthening development, etc. They work at democratic transformation in order to increase the participation of people in the decision-making that shapes their lives and to strengthen good governance. They also contribute to the improvement of social, political and economic conditions, the reduction of social and political tensions, the building of peace, domestically and internationally, and the nurturing of national and international awareness of human rights.

The Amnesty International Ireland produced a book intended to be used in primary schools employing storytelling as an educational tool. Through these stories, we gain insights into the actions undertaken by HRDs. For example, Fela Kuti, a Nigerian musician, used songs with political messages to criticize the military government in his country (AMNESTY INTERNATIONAL, 2012). And Maria, from Angola, who resisted eviction from her home while pregnant – which was targeted to be demolished by the administration –, faced the police and together with others created their own new homes from the materials left by the destroyed houses (AMNESTY INTERNATIONAL, 2012). Having delved into the activities of HRDs, we proceed with the analysis of why they should be protected due to their work.

3.3 Why they must be protected

As Bennet et al. (2015) explain, to be recognized as a HRD confers some legitimacy and status. With this recognition, they can access support, protection, especial funds and resources, they can participate in some programs that are from the exclusive use of HRDs. However, as HRDs they have executed some of the “actions” we described in the last topic, and for this reason they have become targets of groups like business owners, big landowners and traditional politicians, as showed by Oliveira (2023). Terto Neto (2018, p. 34-35) considers that a HRD “not only challenge the *status quo*, but also organize and carry out social struggles for HR and development” and by doing so they find “resistance, forms of maintaining a *status quo*, and the methods used for its maintenance are presented diffusely to the community, but straight to those who showed it, that is, the HRDs”. Bennet et al. (2015, p. 888) complement this argument saying that “in some cases, the use of the

term can inadvertently raise the level of risk that defenders face and be used to politicize their work”.

Another situation caused by the wideness of the HRD concept is that some aggressors and violators are using the term to refer to themselves as HRDs (BENNET et al., 2015), which can create some narrative disputes, favoring those who have more political and economic power. Nah et al. (2013, p. 404-405) observe a confusion about the HRD label, because sometimes it “is used for certain actors within a sociopolitical context and not others, without clear explanation or consistent rationale. [...] This can lead to division amongst human rights activists who work together”. Kleeman (2020, p. 23-24) points out another situation, where the “States exploit this lack of precision and do not acknowledge people as HRDs or worse, declare them to be perpetrators or terrorists”.

The fact is that because of their actuation “human rights defenders are regularly attacked, and too often pay with their lives for their witness” (BRYSK, 2014, p. 343). A manual developed by the Tactical Technology Collective (TTC) (2016) elucidates the diverse and intricate nature of threats encountered by HRDs.. The common sense usually thinks they need protection only against violent attacks, office raids or judicial harassments. However, the manual goes beyond this surface and thinks about structural forms of violence and harassment, like: “economic and other types of marginalization, extremely heavy workloads, lack of financial security, stress and traumatic experiences among a host of other factors” (TTC, 2016, p. 21).

Such forms of violence don't solely impact HRDs but extend their effects to encompass their families, often leading to mental health repercussions. This aspect has garnered significant attention, prompting Nah (2019) to undertake a study examining the mental and emotional well-being of individuals engaged in risky forms of HR activism. Her findings indicate that HRDs face high levels of stress, anxiety, trauma and burnout. We quote a brief explanation about these situations faced by HRDs and its causes, presented by Nah (2019, p. 2):

The daily physical and psychological demands of human rights practice in risky environments can be incessant and overwhelming. People engaged in activism often find it challenging to draw barriers between their human rights activism and their personal lives (Bobel, 2007; Vaccaro & Mena, 2011), particularly when they defend their own rights and/or live in the

communities whose rights they fight for. As we found in this study (Nah, 2017), human rights activism is also often done on a voluntarily basis; when it is paid, funding is often limited and uncertain, leading to financial insecurity – yet another stressor (see also Satterthwaite et al., 2019). People engaged in human rights activism regularly experience stress, distress and trauma – both directly, as they experience risks, threats, and violence themselves, and vicariously, as they interact with victims of violence and human rights violations, such as through taking testimonies, documenting incidents, and witnessing abuses (Dubberley, Griffin, & Bal, 2015; Knuckey, Satterthwaite, & Brown, 2018). Those directly threatened or attacked tend to have worse mental health outcomes (Holtz, Salama, & Gotway, 2002; Joscelyne et al., 2015). Human rights defenders and protection actors alike have called for a more holistic – or ‘integrated’ – understanding of security that focuses not only on physical and digital security, but also on psychosocial wellbeing (Barry, 2011; Higson-Smith et al., 2016; IM-Defensoras, 2013).

To give a better understanding about this harsh situation faced by HRDs is paramount that we look at data and statistics. In the 2022/23 Report of “The State of the World’s Human Rights”¹⁸, the NGO Amnesty International dedicated several moments to report about the HRD’s situation worldwide. During the survey, the NGO declared that HRDs were killed due to their work in 8 countries (Brazil included) and that they were threatened, harassed or subjected to criminal prosecution or arbitrary arrest in 14 countries (Brazil included). The numbers are impressive: “in Colombia, at least 189 social leaders and human rights defenders were killed during the year. In Venezuela, at least 396 human rights defenders were the targets of intimidation, stigmatization and threats” (AMNESTY INTERNATIONAL, 2023, p. 31).

The report dedicated a section to Brazil's situation, recalling the fourth anniversary of the killing of Marille Franco – a HRD and a councilwoman – and her driver, Anderson Gomes. The investigations failed to identify those responsible for ordering the killings or shed light on the motives behind them. Also, it reports the murderers of three environmental activists who protected turtles in the state of Pará; the killings of the British journalist Dom Phillips and the Brazilian indigenous expert Bruno Pereira in the Amazonas state; the threats the Bishop Vicente de Paula suffered; and, Raimundo de Oliveira, an activist of land rights movement, who was shot dead inside his house.

¹⁸ Available at: <https://www.amnesty.org/en/documents/poi10/5670/2023/en/>. Last access: 01 dec. 2023.



Another report – “Decade of Defiance Ten Years of Reporting Land and Environmental Activism Worldwide”¹⁹ – from the NGO Global Witness, states that every week three people are killed trying to protect their land or their environment and that “this has been going on for decades, with the numbers of killed in recent years hitting over 200 each year. And I could tell you, as this report does, that a further 200 defenders were murdered in the last year [2021] alone” (GLOBAL WITNESS, 2022, p. 6). Among those 200 HRDs murdered, 26 were from Brazil. Also, between 2012 and 2021, 1,733 land and environmental HRDs were killed, 342 of them in Brazil (almost 20% of the total) (GLOBAL WITNESS, 2022, p. 17). About Brazil, the report adds (GLOBAL WITNESS, 2022, p. 18):

Brazil has been the most murderous country since Global Witness started reporting on defenders. Overall, it represents the country with the highest documented number of killings since 2012, with 342 lethal attacks in total. Around a third of those killed were Indigenous or Afro-descendants, and over 85% of killings happened within the Brazilian Amazon.

More recent data²⁰ provided by the Global Witness presents the statistics regarding 2022, with 177 land and environmental HRDs killed around the world. HRDs “are also being increasingly subject to criminalization as a strategy for silencing those who speak out, with laws being weaponized against them”. Latin America is a critical region accountable for 88% of lethal attacks. 34 killings happened in Brazil. The NGO reminds us of the lack of justice, since “very few perpetrators are ever brought to justice due to the failures of governments around the world to properly investigate these crimes, resulting in impunity fueling further attacks”.

Document²¹ issued by the NGO “Front Line Defenders” uses the HRD Memorial to presents data regarding killing of HRDs in 2022. In that year, 401 HRDs were killed in 26 countries. Colombia was the deadliest place for HRDs, with 186 deaths, three times more than Ukraine, the second most dangerous place. Brazil occupies the fourth position, with 26 killings. The report built a

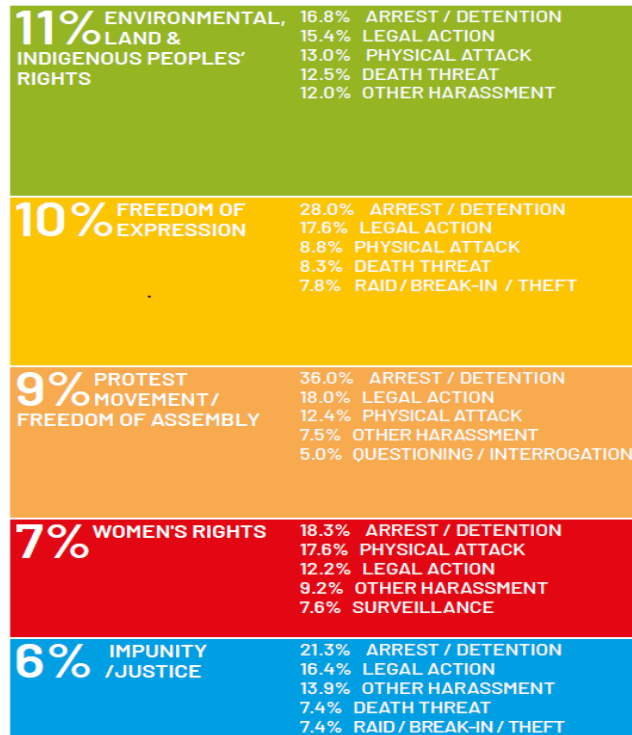
¹⁹ Available at: <https://www.globalwitness.org/en/campaigns/environmental-activists/decade-defiance/>. Last access: 01 dec. 2023.

²⁰ Available at: <https://www.globalwitness.org/en/press-releases/almost-2000-land-and-environmental-defenders-killed-between-2012-and-2022-protecting-planet/>. Last access: 01 dec. 2023.

²¹ Available at: https://www.frontlinedefenders.org/sites/default/files/1535_fld_ga23_web.pdf. Last access: 01 dec. 2023.

table showing “five most targeted sectors of human rights defense and the most common ways in which these HRDs were targeted” (p. 7):

Table 1 – HRDs targeted sectors and the way they are targeted



Source: Front Line Defenders (2022: 7).

Considering data produced by a Brazilian NGO, we quote the report²² produced by Terra de Direitos and Justiça Global, about the 2019-2022 term. During this period 1,171 cases of violence against HRDs were seen, being 169 of them murdered. The types of violence registered were: physical aggression; threats; sexual harassment; delegitimization (calumny); criminalization; attacks; killings; and, suicides. Violence was seen in all the 27 Brazilian states. The report also brings information about how the killings were executed: the most used method was shooting – 34.3% – followed by multiple shots – 29%. Regarding the type of struggle – or thematic – HRDs supported, the huge majority (78.5%) were involved in land and environmental issues, followed by LGBTQIA+ fights (4.8%) and human rights in general

²² Available at: <https://terradedireitos.org.br/uploads/arquivos/Si%CC%81ntese-dos-dados-%28PT%29.pdf>. Last access: 01 dec. 2023

(3.7%). Finally, 16.5% of the threats and 9.3% of the killings came from public agents, against 52,8% and 15,7%, respectively, from private agents.

After examining this data, it is not hard to reach to the same conclusion as Terto Neto (2018, p. 33) points:

In fact, HRDs have been stigmatized, defamed, ostracized, threatened, harassed, subjected to surveillance, assaulted, raped, murdered, made to disappear, made victims of arbitrary arrest and detention, accused and sentenced on false charges, subjected to laws and regulations that limit their rights (to freedom of expression, association and movement) because of the work they do for bringing about social, economic, political, and cultural changes (UN A/HRC/31/55, para. 26; UN A/ HRC/31/55/Add.1).

Given the substantial array of threats (physical, mental, economical, emotional, and so on) that HRDs face, we can argue for HRDs to be immediately protected, especially since they are targets of people who considers that the actions of HRDs represent a serious threat to their interests (*status quo*). These antagonists typically disregard human rights to attain and retain economic and political power. Thus, if HRDs are executing deeds of collective interest and seeking to guarantee a better quality of life for a bigger number of people, they should be valorized, respected and protected for their actions in favor of democracy, social justice and human rights. So, “the state must protect HRDs because they are responsible for the process of questioning unfair, unjust, excluding, and violent national structures, seeking to emancipate dominated (vulnerable) groups and construct a new model of society, with a new notion of citizenship” (TERTO NETO, 2018, p. 35).

In this sense, we present two Terto Neto (2018) arguments of why States must protect HRDs, one socio-political, and another legal. The author argues that “states must protect HRDs because they are the people who organize and carry out social struggles for democracy, HR and social justice. HRDs are essential to bringing about social, economic, political changes in society” (TERTO NETO, 2018, p. 34), being the sociopolitical point. “In the second place, there is the legal argument according to which international HR norms impose on states the duty to protect the rights of HRDs” (TERTO NETO, 2018, p. 34). The author complements this argument by quoting Brazil’s Constitution articles, which regulate all the fundamental rights necessary for the protection of HRDs.

We have demonstrated who the HRDs are, revealed the actions they perform and why they must be protected. Next, we will think about alternatives to better protect HRDs in Brazil.

4. Alternatives for the protection of human rights defenders in Brazil

There should be no doubt that as a result of their activities, HRDs are victims of state and non-state violence. They are constantly under threat and not rarely killed by state agents (military or civil policepersons), militias (controlled by the police or by former policepersons) or hitman (hired by private companies). In this light, perhaps it is important to ask: what can be done to really protect HRDs? What are the alternatives for the protection of HRDs in Brazil?

The protection of HRDs usually occurs in two ways in Brazil. First, there is the state protection of HRDs, communicators and environmentalists, which is carried out by the State, as a public policy. Second, there is the popular protection of HRDs, which is carried out by organized civil society. Table 2 shows a summary of the State and popular protection, and also presents the Brazil's states with their own HRDs protection program.

Table 2 - Protection of HRDs, Communicators and Environmentalists in Brazil

State Protection	Popular Protection
State (federal and state governments)	Organized Civil Society
<ul style="list-style-type: none"> • PPDDH (Federal Program) • PPDDH (State Programs): <ul style="list-style-type: none"> ✓ Bahia; ✓ Ceará; ✓ Mato Grosso; ✓ Maranhão; ✓ Paraíba; ✓ Pará; ✓ Minas Gerais; 	<ul style="list-style-type: none"> • Done by: <ul style="list-style-type: none"> ✓ Human rights defenders; ✓ Civil society organizations; ✓ Social and popular movements. • In articulation with: <ul style="list-style-type: none"> ✓ International human rights networks.

- ✓ Pernambuco;
- ✓ Rio de Janeiro;
- ✓ Rio Grande do Sul.

Source: Projeto Sementes de Proteção (2022); Carbonari (2023); Tertto Neto (2018).

Nevertheless, it's important to note that these alternatives have positive and negative aspects in terms of the protection of HRDs, communicators and environmentalists in Brazil.

4.1 Popular Protection

Popular protection has historically been carried out by local, state and national human rights networks, in coordination with regional and international human rights networks. It is thus a protection carried out *by* HRDs, civil society organizations, and social and popular movements *for* other HRDs (PROJETO SEMENTES DE PROTEÇÃO, 2022; CARBONARI, 2023).

Popular protection brings numerous advantages.

First, it is a historical practice cultivated in NGOs and human rights social and popular movements. It is thus 'guided by an existential requirement to care for life and life "in abundance", its causes, dreams and struggles, in all its forms and, particularly, of needy human subjects who recognize themselves as fighters of the people, popular militants and activists as "popular human rights defenders" (PROJETO SEMENTES DE PROTEÇÃO, 2022: 14).

Second, it promotes life in abundance, that is, the possibility that everyone acquires a *good living*, not only having a life, but having a life with dignity, which means being able to fulfil their project of happiness, whatever it might be, given the Brazilian recurrent contradictions (PROJETO SEMENTES DE PROTEÇÃO, 2022).

Third, it is an anti-racist, anti-patriarchal, anti-sexist, anti-lgbtqphobic and anti-normalist action, that is, it is an inclusive and human rights-based concept of protection, which rejects any form of prejudice, discrimination, division, and so forth (PROJETO SEMENTES DE PROTEÇÃO, 2022).

Fourth, it becomes effective in the spaces that the organizations and movements themselves build in each situation, context, temporality and territoriality, forming “protective communities”, which work towards a collective, popular, democratic, just and fair project, that is, for a new sociability that allows for the establishment of a new project of citizenship (DAGNINO, 1998; TERTO NETO, 2018). It is thus a practical action that involves an integral performance by all subjects, that is, the popular HRDs (PROJETO SEMENTES DE PROTEÇÃO, 2022).

Fifth, it engages three dimensions: self-protection (self-care), reciprocal protection (taking care of each other), and solidarity protection (of those we can count on for support), that is, it is a three-dimensional approach towards effective protection of HRDs that includes the local, national and international levels of political engagements (PROJETO SEMENTES DE PROTEÇÃO, 2022).

Sixth, it does not exclude protection as a State policy, that is, it counts on the state programs for the protection of HRDs when convenient or possible (PROJETO SEMENTES DE PROTEÇÃO, 2022).

Seventh, it is a learning process, that is, it involves a “protection pedagogy”, through which the subjects in/under protection construct a praxis of popular human rights education (PROJETO SEMENTES DE PROTEÇÃO, 2022). It follows that to engage with popular protection of HRDs is therefore an educative process of permanent formation that seeks to emancipate HRDs fully. This is because ‘the practice of popular protection is an exercise in affirming human rights subjects in situations in which their dignity and rights are at risk or violated. It implies the development of political and pedagogical actions to be translated into protective processes’ (CARBONARI, 2023: 99).

Popular protection has negative aspects, nonetheless.

First, there is the issue of financial and structural limitations of social organizations and popular movements to carry out the protection itself, that is, they do not have enough resources/funding to protect all HRDs who are under threat and/or in vulnerability due to their work for democracy, social justice and human rights (PROJETO SEMENTES DE PROTEÇÃO, 2022).

Second, there is the issue of the absence of comprehensive support houses for HRDs temporarily removed from their place of struggle, that is, there is the lack of spaces with the necessary personal and structure for HRDs’ temporary relocation (PROJETO SEMENTES DE PROTEÇÃO, 2022).

Third, there is the issue of difficulties in protecting isolated communities in rural areas in the countryside, especially when it comes to *quilombolas*, indigenous peoples, and other traditional communities (PROJETO SEMENTES DE PROTEÇÃO, 2022). Table 3 below shows the positive and negative aspects of the popular protection.

Table 3 - Positive and Negative Aspects of the Popular Protection of HRDs

Positive Aspects	Negative Aspects
<ul style="list-style-type: none"> • Historical practice cultivated in NGOs and human rights social and popular movements. • Promotes life in abundance (good living). • Anti-racist, anti-patriarchal, anti-sexist, anti-lgbtqphobic and anti-normalist action. • Effective in spaces that NGOs and movements themselves build as “protective communities.” • Three-dimensional approach: <i>self-protection</i> (self-care), <i>reciprocal protection</i> (taking care of each other), and <i>solidarity protection</i> (of those we can count on for support). • It does not exclude protection as a State policy. • Learning process: “Protection Pedagogy”. 	<ul style="list-style-type: none"> • NGOs and social and popular movements’ financial and structural limitations to carry out the protection itself. • Absence of comprehensive support houses for the temporary relocation of HRDs. • Difficulties in protecting isolated communities in rural areas in the countryside (<i>quilombolas</i>, indigenous people, and so forth).

Source: Projeto Sementes de Proteção (2022); Carbonari (2023).

4.2 Institutional Protection

Institutional protection has been carried out by the State, as a public policy for the protection of HRDs, communicators and environmentalists. It is



thus a protection ‘carried out as a public protection policy, conducted under the auspices, guidance and financing of the State, preferably carried out by an interdisciplinary team hired and maintained by civil society organizations working in human rights’ (PROJETO SEMENTES DE PROTEÇÃO, 2022: 29). Institutional protection is a bipartite national public policy, that is, there is the participation of the federal government and of some state governments. According to the Ministry of Human Rights and Citizenship of Brazil, only 10 states have protection programs in agreement with the federal government. They are: Mato Grosso, Rio de Janeiro, Maranhão, Paraíba, Pará, Minas Gerais, Bahia, Pernambuco, Rio Grande do Sul and Ceará. Table 4 shows the number of HRDs included in each state program (programas estaduais) and in the federal program (programa federal).

Table 4 – State Protection: PPDDH – Active (Ongoing) Cases

Programas Estaduais	Incluídos	
Rio de Janeiro	25	
Maranhão	68	
Paraíba	15	
Pará	57	
Mato Grosso	10	
Minas Gerais	82	
Bahia	83	
Pernambuco	45	
Rio Grande do Sul	5	
Ceará	79	
TOTAL PARCIAL (Programas Estaduais)	456	
Programa Federal*	87	
TOTAL (Programa Federal + Programas Estaduais)	548	

Source: MDHC / Metrópolis
 <<https://www.metropoles.com/brasil/so-10-ufs-tem-programa-de-protecao-a-defensores-de-direitos-humanos>> access 25 December 2023.

Institutional protection has many positive aspects, as demonstrated by Terto Neto (2018). First, when the State protects HRDs physically, psychologically and even symbolically, it supports and strengthens their struggles for human rights, which might lead to some socio-political changes at local level. Second, it empowers organized civil society when it protects HRDs and supports and strengthens their struggles through human rights education at the local level. Third, it restores the balance of power between dominants versus dominated when it provides HRDs with the help they need to confront powerful groups that prevent them from accessing and/or exercising their fundamental rights. Fourth, it alters or influences the work of the Brazilian State (in a still very limited way) when it: (a) combats the use of abusive practices such as coercion and criminalization of HRDs by police institutions and leads police to guide their conduct respecting the HRDs' constitutional guarantees; (b) questions the State regarding its ineffectiveness in confronting human rights violations and state and non-state violence against HRDs; (c) tries to influence the Legislature and the Executive in the development of laws that are in harmony with international human rights standards.

Terto Neto (2018) has also highlighted the negative aspects of the institutional protection.

First, the current budget and structure are insufficient to organize and maintain the Brazilian Program at the level necessary to respond effectively to the problem of state and non-state violence against HRDs in Brazil.

Second, the Brazilian Program functions as a *political articulator* that depends on other public entities and civil society to protect HRDs. In this sense, the Brazilian Program provides "assistance" or "support" to HRDs, instead of "protection" itself.

Third, the Brazilian Program is regulated by presidential decrees, which did not need to go through the Brazilian Congress. Presidential decrees have been used because Bill 4,575/2009, which would regulate the Brazilian Program through a federal law, has faced strong resistance from conservative groups (ruralists, evangelicals, and so forth).

Fourth, the federal and state governments have not demonstrated a strong *political will* to create, maintain and/or structure the Brazilian Program. This has had a significant impact on the functioning of the Brazilian Program (federal and state) with the serious consequence of preventing many

more threatened, at risk and/or vulnerable HRDs from being protected (TERTO NETO, 2018).

Finally, the table 5 summarizes the positive and negative aspects of the institutional protection of HRDs in the Brazilian context.

Table 5 - Positive and Negative Aspects of the Institutional Protection of HRDs, Communicators and Environmentalists

Positive Aspects	Negative Aspects
<ul style="list-style-type: none"> • It strengthens human rights struggles. 	<ul style="list-style-type: none"> • Insufficient budget and structure.
<ul style="list-style-type: none"> • It empowers organized civil society. 	<ul style="list-style-type: none"> • High dependency on other public entities and civil society to protect HRDs
<ul style="list-style-type: none"> • It restores the Balance of Power between dominants <i>versus</i> dominated 	<ul style="list-style-type: none"> • Lack of a strong legislative framework.
<ul style="list-style-type: none"> • It alters or influences the work of the Brazilian State (in a still very limited way). 	<ul style="list-style-type: none"> • Absence of greater <i>political will</i> from the federal and state governments to improve the Brazilian Program.

Source: Terto Neto (2018)

5. Final Considerations

In this paper, we have presented essential concepts, information and notions necessary for a comprehensive understanding of the environment in which HRDs operate in Brazil. In this light, we have seen that even though Brazil started walking the human rights walk, the country hasn't reached a behavior rule-consistent with HR norms and legislations. In addition, we have analyzed statistical data to demonstrate how Brazil is still an unequal society, suffering from wealth concentration, discrimination, structural racism, high taxes of violence and so on. This has allowed us to establish that the Brazilian context can be understood through the lens of "social authoritarianism".

Drawing on Dagnino's (1994; 1998) insights, we have advocated for a new type of citizenship, one aligned with the author's sense of the right to have rights. Our argument has emphasized the pivotal role of HRDs in dismantling the structures upholding the prevailing *status quo* and its associated injustices. In this regard, we have advocated for HRDs' role in fostering the construction of the aforementioned new form of citizenship, in which the right to have rights is something accessible for all members of Brazilian society. We have contended that as social authoritarianism persists, with increasing characteristics, such as violence, poverty, exclusion and inequality, HRDs' work must be better understood and, particularly, praised and encouraged, since HRDs are the ones seeking to construct a more equal and fairer society.

While presenting the characteristics of an HRD, relying on UN documents, we have connected the UN HRD concept with the Brazilian reality, illuminating on how international organizations consider a person (or persons) to be an HRD (or HRDs), and how the term HRD is expressed within the Brazilian legislation. Such a review has helped enhance our argument since while we subsequently considered the institutional protection the Brazilian State provides for the HRDs.

After describing what an HRD does, having in mind that the action is the key that characterizes this group, we have established that HRDs must be protected because they are essential in defending democracy and human rights as well as challenging the *status quo*, which, as verified, turns them into targets of numerous and often fatal attacks by state and non-state agents in Brazil. All of which has led us to understanding that HRDs play a fundamental role against social authoritarianism and towards the construction of a new sociability in which the right to have rights (full citizenship) is a concrete reality.

As per our main question – what are the alternatives for the protection of HRDs in Brazil? – we have contended that the State (institutional protection) as well as organized civil society (popular protection) must unite efforts to guarantee the effective protection of HRDs. In this respect, we argue that State and organized civil society guaranteeing the necessary conditions for HRDs to act, there would be a greater likelihood that they would help change the *status quo*, leading to much-needed structural changes. At the same time, as HRDs challenge the current notion of citizenship, they can pave the way for a new

model of Brazilian citizenship, one that could be based on Dagnino's insights regarding her strong point on the right to have rights (full citizenship).

It is also our argument that HRDs may lay the groundwork for organized civil society to advocate on behalf of improved government legislations as, for instance, concerning agrarian reform. In fact, it can be said that a structural reform such as the agrarian reform might prevent some causes of struggles (land disputes) and thus avoid violence against HRDs. It might as well empower HRDs and diminish the influence of powerful landowners who target HRDs challenging their (unlawful) land holdings.

Yet, as we have stressed, this remains a distant reality. The fact is that until the Brazilian society elect a majority of more progressive politicians truly committed to put in motion those structural changes, State and organized civil society must work together in order to protect HRDs effectively, and this, as we have contended, can be done by combining the popular and the institutional protection efficiently.

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