

CURITIBA LETTER OF RESISTANCE

1st NATIONAL SEMINAR ON THE RIGHT TO DEMONSTRATION AND THE JUSTICE SYSTEM Curitiba – Paraná, Brazil / 2018, July, 19 -21

With the aim of bringing together researchers, university teachers, members of civil society organizations and social movements, as well as public defenders and other members of the justice system, ARTICLE 19, *Fórum Justiça*, the External Ombudsman Service of the Paraná State Public Defenders' Office, *Terra de Direitos* and the Constitutional Studies Centre/Federal University of Paraná present this Letter as a product of the discussions, reflections and proposals made at the Seminar on the Right to Demonstration and the Justice System: towards the Democratic Rule of Law on June 21st and 22nd 2018, for the consolidation of the Right to Demonstration and Freedom of Expression:

WHEREAS the progressive resurgence of mechanisms of repression and criminalization on the part of State institutions and violent action by private agents during public demonstrations in a manner clearly contrary to the redemocratization process begun with effect from 1988 Constitution;

WHEREAS the right to demonstration has historically been the driving force of social movements in the enjoyment of rights, being inherent to a regime that is intended to be democratic;

WHEREAS the consolidation of the state of exception embodied by the disruption of democracy since 2016 impeachment, which was backed by actors of the justice system;

WHEREAS the continuous process of undermining social rights and violating the Federal Constitution, which has been responded to by society occupying public spaces and exercising the right to free assembly, demonstration and the freedom of speech, although these rights are being recurrently restricted once again with the backing of actors of the justice system;

WHEREAS the socio-geographical conditions of the city of Curitiba and this city being seen as an important centre of discussion and diffusion of the debate on the right to demonstration, a regional centre of trade union action and the stage on which historic and important events of political resistance have taken place;

WHEREAS at times of setbacks and conservatism, culture has permanently been a form of expression and manifestation of the struggle for rights so as to make evident the policies of the invisible, the bodies of the poor, men and women, Black men and women, LGBTIQ people, the rural and urban populace;

WHEREAS there is a national context of violation of the right to free demonstration, within a systemic perspective coordinated by the powers of the State to restrict the exercising of this right;

WHEREAS diverse actors throughout the country are engaged in plural initiatives of resistance and pressure on the justice system to ensure this right and to limit the use of force both by public and private agents;

WHEREAS the material threats underway in relation to, for instance, the resurgence of Anti-Terrorist legislation and institutionalization of prior notice which submits demonstration to the discretion of governmental bodies;

WHEREAS the low racial and gender representativeness of the members of the institutions that form the justice system as a factor which distances the Law and makes it non enforceable related to its true subjects;

WHEREAS the limited social and external accountability of diverse justice system actors, in particular the police, the Public Prosecution Service and the Judiciary Branch;

Those present at the Seminar commit to unifying their efforts in order to concretize the following DELIBERATIONS:

Theme I – Deliberations relating to enforce policies to ensure the internal social democratization of the justice system, by means of participation, social monitoring and strengthening of public deliberative spaces

1. Implement affirmative actions in the recruitment processes of all legal profession within the justice system institutions;
2. Promote the creation of an Civil Society External Ombudsman Service, as the example of the ones implemented in the Public Defenders Office, in the justice system institutions and increase external control;
3. Urge the Public Prosecution Service to perform external control over the police;
4. Ensure gender equality in the justice system;
5. Intensify the partnership with the National Association of Public Defenders (ANADep) in relation to the right to demonstration;
6. Formulate strategies related to civil society's participation in the National Council of Justice (CNJ) and the National Public Prosecution Service Council (CNMP) beyond formal participation;
7. Promote the formation of a multidisciplinary space in Universities in order to reflect on and produce data on how violence during demonstrations and other types of violence occur and how they are treated by the justice system;
8. Design simple tools to compile data on homicides committed because of engagement in the defence of human rights which can be kept updated by human rights defenders through their institutions' websites;
9. Formulate concrete criteria to limit the use of force during protests;
10. Promote, structure and disseminate internal control mechanisms;
11. Promote, structure and disseminate external control mechanisms, and bring pressure to bear for their existence in institutions that do not yet have this mechanism, such as the State-level Public Prosecution Service, the Federal-level Public Prosecution Service and the Federal-level Public Defenders' Office, the Civil and Military Police, and the Courts;
12. Promote affirmative actions in relation to gender and race within the justice system;
13. Increase the active participation of Social Movements in institutional actions within the justice system;

14. Take part in local groups with the aim of facilitating their close critical engagement with issues related the justice system performance in face of the full enjoyment of human rights;
15. Encourage denouncements of Public Prosecution Service omission in overseeing the police;
16. Require of the National College of Public Defenders General (CONDEGE) effective participation of the Public Defenders' Office in large-scale demonstrations, in a unified and coordinated manner, based on an action and service provision protocol, with availability of institutional access channels (telephone numbers and electronic addresses);
17. Require the establishment in the publicity channels of the Public Defenders' Office at state and federal level (website and social networks) of contents that highlight their institutional commitment to defending the right to demonstrate;
18. Require the Public Defenders' Associations, at state and federal level, to promote the monitoring of institutional policies relating to demonstrations, ensuring public participation therein; e
19. Promote, support and distribute informative material (booklets) among social movements relating to rights, guarantees and forms of protection against violations during demonstrations; take associative stances firmly against the taking out of administrative procedures against Public Defenders who take part in demonstrations.

Theme II – Deliberations relating to civil society strategies for action and organization in relation to State bodies in order to advance with defending the right to demonstrate, in particular public security agencies and justice system institutions.

1. Bring pressure to bear, both through political demonstrations and by taking legal action, on Extraordinary Review Appeal No. 905149 in the Supreme Court regarding prior notice of demonstrations;
2. Bring political pressure to bear for the withdrawal of Bills of Law that exacerbate the Anti-Terrorism Law and other Bills intended to restrict the right to demonstrate, monitored by Article 19;
3. Defend the alteration of the public security policy based on the perspective of a war against drugs, in favour of legalization;
4. Make public demands for the investigation of homicides as a way of keeping the commitment to Memory and Truth, countering the practice of non-investigation prevailing in Brazil;
5. Implement Local Amnesty Centres for people involved in drug trafficking as a means of reducing the workforce available for trafficking, providing job training and inclusion on the labour market for these people without their being subject to the criminal justice system;
6. Identify racism as a structural and institutional characteristic of the actions of the State and its institutions;

7. Foster initiatives such as the Ceará Homicide Prevention Committee, which questioned the official narrative on murders in that state, which was based on conflicts involving drug trafficking but unsupported by scientific criminal investigation. A study published by the Committee proved that the cause of the majority of homicides was related to personal conflicts, thus requiring an effective alternative public security policy not based on the war against drugs;
8. Build strategies for identifying human rights defenders in urban locations (community leaders) who, in general, are murdered as such but have their deaths attributed to drug trafficking;
9. Connect human rights defender networks and forms of self-protection, designed and implemented by the social movements themselves, such as the one that produced the Sapopema-SP Human Rights Committee Handbook;
10. Build dialogue with organizations and groups working against fascism in police forces;
11. Strengthen progressive collectives advocating for the institutional policy changes of agencies that form part of the Justice System and include them in the debate on the right to demonstrate;
12. Consider the impacts of armed violence as being elements that systematically undermine the structure of entire communities, affecting Black women in particular;
13. Make visible and counter forms of violence and repression used against demonstrations associated with racism, sexism, LGBTphobia and class-based elimination;
14. Bring pressure to bear so that the protocols that rule how the police act in demonstrations be made public, and demand the identification of police officers working and those in the line of command, so as to prevent them from avoiding liability for acts that violate the right to demonstrate;
15. Denounce the dismantling of the Federal Government's protection policy for human rights defenders;
16. Publicize and denounce the repressive and violent role of private militia organizations against human rights defenders and their role in repressing political and cultural demonstrations in urban and rural communities and the connivance of police forces and the justice system; e
17. Replicate activities and workshops regionally, with the aim of discussing and implementing the plan proposed in Curitiba at the end of the Seminar "The Right to Demonstrate and the Justice System: ways forward for affirming Democratic Rule of Law". The plan represents the set of deliberations specified above.

Theme III - Diagnosis of repression of the right to demonstration in Curitiba

In view of the local context in the city of Curitiba, this Letter publicizes the summarized assessment undertaken by those present with regard to the guarantee and violation of the right to demonstrate in the capital city of Paraná state. The assessment denounces that actions taken by the State against demonstrations have been characterized by:

- i) social stigmatization of women, Black people, LGBTQI+ people, people living on the street and indigenous people;
- ii) police abuse of authority and violence;
- iii) criminalization of poverty;
- iv) arbitrary arrests;
- v) institutional racism;
- vi) criminalization of symbols and ideologies contrary to the *status quo*;
- vii) politicization of the justice system and opening investigations and filing lawsuits with the aim of intimidating and undermining mobilization;
- viii) threats, moral and sexual harassment and dissemination of insults, libel, slander and defamation against movements and demonstrators;

All of which are coordinated with the aim of dismantling political and social organization and democratic spaces.

These practices have been seen in leading cases of repression of demonstrations in the region:

- The more than two hundred and fifty occupations of schools in Paraná gave cause to the criminalization of teachers and students, who must be granted amnesty for their incriminations;
- The indictment of bicycle activists for graffiti vandalism after they painted bicycle lanes in the city;
- The repression of teachers on April 29th 2015 which led to legal action being taken against teachers, increased Municipal Guard brutality and head teachers of public schools being dismissed from office;
- Countless street protests marked by selective behaviour on the part of police officers depending on their political inclination, whereby protests are used by security forces to promote, during their acts of repression, the forced rounding up of people living on the street in the midst of demonstrators, in order to promote social cleansing of the city.

State agents have been identified as the main violators of the right to free demonstration and the way in which the justice system addresses this right has been considered unsatisfactory. At the same time, the Public Prosecution Service, the Public Defenders' Office and the legal aid services have been indicated as the main channels of complaints about such violations, and this role asserts itself even more in view of the perspective of justice system reform to enable greater civil society participation and control, with increased legal training on the defence of rights.

Finally, it is important to point out the alliance established to act positively, in view of political doors opened by the current context, perceiving the justice system as a territory of political dispute to be waged from a standpoint of democracy and from the human rights perspective.

Curitiba
June 22nd 2018