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FORCED DISAPPEARANCES IN LATIN AMERICA ARE NOT RELICS OF THE PAST *by Taylor Potenziano**

Almir Muniz da Silva was a Brazilian rural laborer, a human rights activist, and a member of the rural laborers' association of Itabaiana who regularly fought for laborers' rights in his home state of Paraíba, Brazil.¹ In 2001, Muniz da Silva testified before the Comisión Parlamentaria de Investigación ("Comisión Parlamentaria") about state-sponsored violence against rural laborers and the formation of rural militias in Paraíba in 2001.² During his testimony before the Comisión Parlamentaria, Muniz da Silva mentioned that certain police officers were involved in acts of violence against rural laborers.³ He named police officer Sergio de Souza Azevedo as the leader of the rural militias initiating this violence.⁴ Muniz da Silva himself had received death threats from Azevedo in 2002.⁵

Muniz da Silva was last seen on the morning of June 29, 2002, driving home in a tractor across the property of a local farm owning family in Paraíba.⁶ His relatives reported that they heard seven gun shots

come from the property.⁷ His body was never found.⁸ The following day, the family reported his disappearance to the police.⁹ The case that follows was presented to the Inter-American Court of Human Rights by the Inter-American Commission on Human Rights ("the Commission") presented *Muniz da Silva vs. Brazil* to the Inter-American Court of Human Rights on May 25, 2023.¹⁰

The Commission noted that the disappearance - and alleged murder - of Muniz da Silva served to scare similar activists into silence.¹¹ The Commission concluded that Brazil was responsible for violations of the rights held in Articles 3 (right to juridical personality), 4 (right to life), 5.1 (right to humane treatment), 7 (right to personal liberty), 8.1 (right to a fair trial), 16 (right to freedom of association), and 25.1 (right to judicial protection) of the American Convention.¹²

The internal investigation of Muniz da Silva's disappearance was closed more than six years after his disappearance without establishing his fate and without holding the perpetrators responsible.¹³ The Commission concluded that the three elements of a forced disappearance were present: a lack of diligence in the investigation of the purported victim; a breach of the guarantee of reasonable time for an investigation; and a violation of the purported victim's freedom of association.¹⁴ The Commission held that Muniz da Silva had suffered from a disappearance at the hands of local law enforcement officials.¹⁵

Forced disappearances were endemic to Latin American dictatorships in the late twentieth century. During the Cold War and beyond, more than one-hundred-thousand Latin Americans were subjected to forced disappearances under authoritarian governments.¹⁶ Brazil was not immune from the enforced dis-

1 * Taylor is a first-year law student at American University Washington College of Law. She received her B.A. in International Studies and Spanish from the University of South Carolina and double-minored in French and Business Administration. Press Release, Inter-American Comm'n on Hum. Rts., IACHR Files Application Before Inter-American Court of Human Rights in Case Concerning Brazil (May 25, 2023) (on file with author) [hereinafter IACHR application] https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2023/097.asp.

2 Press Release, Corte Interamericana de Derechos Humanos, Caso Muniz da Silva vs. Brazil (on file with author). https://www.corteidh.or.cr/docs/tramite/muniz_da_silva.pdf (Only available in Spanish) [hereinafter Muniz da Silva testimony].

3 IACHR application, *supra* note 1.

4 *Id.*

5 Muniz da Silva testimony, *supra* note 2.

6 Muniz da Silva testimony, *supra* note 2.

7 *Id.*

8 *Id.*

9 IACHR application, *supra* note 1.

10 IACHR application, *supra* note 1.

11 *Id.*

12 *Id.*; see also Organization of American States, American Convention on Human Rights, Nov. 22, 1969, O.A.S.T.S. No. 36, 1144 U.N.T.S. 123.

13 Organization of American States, American Convention on Human Rights, Nov. 22, 1969, O.A.S.T.S. No. 36, 1144 U.N.T.S. 123.

14 IACHR application, *supra* note 1.

15 Muniz da Silva testimony, *supra* note 2.

16 Around 40,000 in Guatemala, 2,000 in Chile, 30,000 in Argentina, 60,000 in Columbia, 6,000 in El Salvador, and 15,000 in

appearances that plagued Latin America, and during its military dictatorship from 1964-1985, 243 people were forcibly disappeared by the regime.¹⁷ To date, more than 200,000 people have gone in Brazil alone between 2019 and 2021.¹⁸ Despite this tragedy, disappearance is not a crime in Brazil.¹⁹ Because disappearances are not criminalized in Brazil, Brazilian legislatures do not feel the need to specify the cause of the disappearances.²⁰ The government turns a blind eye to the pain and suffering of the disappeared persons' families and does not provide them with solutions.²¹

This gap in the law has left to the families of missing loved ones to search for their relatives. One Brazilian mother founded an NGO called the Mães da Sé (Mothers of the See) in 1995 after the disappearance of her daughter in São Paulo.²² The Mothers of the See aids families in the search of loved ones.²³ The organization provides a range of services to families in need, such as legal support through volunteer lawyers and psychological support. The Founder states that these disappearances need to be treated as a public security issue.²⁴ She notes that without public policies to combat disappearances, missing children will continue to be a statistic to the government, and families will continue to live without resolutions.²⁵

Muniz da Silva is yet another person who fell victim to the gap in legal regimes protecting Brazil-

ians from enforced disappearance. It has been 22 years since Muniz da Silva's disappearance, and the issue of missing persons continues to plague Brazilian society. Without action on the part of Brazil's government, these missing family members' fates will be left to NGOs like the Mothers of the See and international organizations like the Commission. While these groups' advocacy for the disappeared shines light on the problem, they cannot eliminate violations of the American Convention on Human Rights without a concerted government effort to support their cause. As states like Brazil continue to be complacent in the face of disappearances, investigations like Muniz da Silva's will continue to be delayed by decades and, even worse, could evade justice entirely. In the case of Muniz da Silva, the IACtHR is presented with an opportunity to move the conversation around enforced disappearances in the right direction and, more importantly, serve justice on behalf of his family.

Peru; Kirsten A. Weld, *Because They Were Taken Alive: Forced Disappearance in Latin America*, REVISTA HARVARD REVIEW OF LATIN AMERICA (Sep. 13, 2013), <https://revista.drclas.harvard.edu/because-they-were-taken-alive-forced-disappearance-in-latin-america/#:~:text=Over%20the%20course%20of%20the,15%2C000%20in%20Peru%2C%20and%2C%20more.>

17 Desaparecimentos Forçados, 1 COMISSÃO NACIONAL DA VERDADE 500, 500 (2014). (Only available in Portuguese).

18 Mapa dos desaparecidos no Brasil. São Paulo: FÓRUM BRASILEIRO DE SEGURANÇA PÚBLICA, 2023. https://forumseguranca.org.br/publicacoes_posts/mapa-dos-desaparecidos-no-brasil/ (last visited Apr. 11, 2024) (only available in Portuguese).

19 Tabata Viapiana, *183 people disappear daily in Brazil yet the country has no national registry for the missing*, BRAZIL REPORTS (June 14, 2023), (<https://www.brazilreports.com/183-people-disappear-daily-in-brazil-yet-the-country-has-no-national-registry-for-the-missing/4997/#:~:text=S%C3%A3o%20Paulo%2C%20Brazil%20%E2%80%93%20Between%202019,12%20and%2017%20years%20old>) [hereinafter Brazil Reports].

20 *Id.*

21 *Id.*

22 *Id.*

23 *Id.*

24 *Id.*

25 Brazil Reports, *supra* note 19.