

# Human Rights Watch

## Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

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Stopping Mass Atrocities, Majority Bullying, and Abusive Counterterrorism

Integrating Rights into a Post-2015 Agenda

Privacy in the Age of Surveillance

How Drug Criminalization Destroys Lives, Feeds Abuses, and Subverts the Rule of Law

Brazil is among the most influential democracies in regional and global affairs, and in recent years has emerged as an increasingly important voice in debates over international responses to human rights problems. At home, the country continues to confront serious human rights challenges, including unlawful police killings, the use of torture, prison overcrowding, and ongoing impunity for abuses committed during the country's military rule (1964-1985).

Faced with high levels of violent crime, some Brazilian police units engage in abusive practices with impunity. In recent years, the São Paulo and Rio de Janeiro state governments have implemented measures aimed at improving police performance and curbing abuses, yet police misreporting and other forms of cover-up persist.

Beginning in June, hundreds of thousands of protesters participated in nationwide demonstrations against inadequate public services and the high cost of staging the World Cup and Olympics in 2014 and 2016 respectively, as well as government corruption and other grievances. In multiple incidents, police used teargas, pepper-spray, and rubber bullets disproportionately against the demonstrators. In October, Rio de Janeiro police arrested more than 200 people following a protest during which banks, stores, and buildings were destroyed. The federal minister of justice and public security officials in Rio and São Paulo states announced in November that they would work together more closely to prevent and punish violence by protesters and police alike.

In August, President Dilma Rousseff signed a law creating a National Mechanism to Prevent and Combat Torture that will consist of 11 experts and have authority to conduct unannounced visits to civilian and military establishments where individuals are deprived of their liberty.

Widespread violence perpetrated by criminal gangs and abusive police plague many Brazilian cities. According to the Brazilian Forum on Public Security, a nongovernmental organization (NGO) that gathers official data from state and federal bodies, 1,890 people died during police operations in Brazil in 2012, averaging 5 people per day. In Rio de Janeiro and São Paulo states alone, police were responsible for 362 killings in the state of Rio de Janeiro, and 165 killings in the state of São Paulo in the first six months of 2013. Police routinely report these deaths as the result of shoot-outs with criminals. While some police killings result from legitimate use of force, others do not, a fact documented by Human Rights Watch and other groups and recognized by Brazilian criminal justice officials.

In an effort to prevent cover-ups of unlawful police killings, the São Paulo state government issued a resolution in January 2013 prohibiting police from removing victims' corpses from the scenes of the shootings. Police killings in the state subsequently fell by

approximately 34 percent in the first six months of 2013, according to government figures. Yet significant obstacles to accountability for unlawful killings in So Paulo persist, including the failure of police to preserve crucial evidence, and the lack of sufficient staff and resources provided to prosecutors responsible for investigating these cases.

In the state of Rio de Janeiro, 11,749 police officers and other public servants received financial compensation in April 2013 for meeting reduction targets for crimes and acts of violence, including police homicides. As of September, 34 Pacifying Police Units (UPP) had also been established in low-income communities with the goal of providing a more effective police presence. The UPP program came under sharp scrutiny when a resident of the Rocinha community, Amarildo Dias de Souza, disappeared on July 14 after being arrested by UPP police, who later claimed to have released him. On August 2, the national minister of human rights called on the Rio government to ensure an adequate investigation into Souzas disappearance. Twenty-five police officers were subject to criminal charges for torture in October in connection with Souzas disappearance. Seventeen of these officers were also accused of unlawfully concealing Souzas body.

Many Brazilian prisons and jails are severely overcrowded and plagued by violence. The countrys incarceration rate increased almost 30 percent over the last five years, according to the Ministry of Justices Integrated System of Penitentiary Information (InfoPen). The adult prison population now exceeds half a million people<sup>43</sup> percent more than the prisons were built for. An additional 20,000 children are currently serving prison sentences. Delays within the justice system contribute to the overcrowding. Nearly 200,000 inmates are in pretrial detention. In Piau state, 66 percent of detainees are in pretrial detention, the highest rate in the country.

Overcrowding and poor sanitation facilitate the spread of disease, and prisoners access to medical care remains inadequate. Torture is a chronic problem in police stations and detention centers. The United Nations Subcommittee on the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment reported that it received repeated and consistent accounts from inmates of beatings and other allegations of ill-treatment during police custody. In July 2013, law enforcement officers in Paran state allegedly beat, suffocated, and applied electric shocks to four men to force them to confess to the rape and murder of a 14-year-old girl. In August 2013, security camera footage from the Vila Maria prison complex in So Paulo state was leaked to the press showing prison guards beating six children. The prison unit director and three other employees allegedly involved in the incident were removed from their posts.

Law enforcement agents who commit abuses against inmates and detainees are rarely brought to justice. In a notable exception, in August 2013, 48 police officers were convicted of homicide for their participation in the 1992 killing of 111 detainees in the Carandiru prison in So Paulo state.

President Rousseff signed a law in August 2013 establishing the National Mechanism to Prevent and Combat Torture. The body will consist of 11 experts with power to conduct unannounced visits to civilian and military establishments where people are deprived of their liberty, open investigations into possible cases of torture, and make recommendations to public and private institutions. It was not operational at time of writing.

Dozens of journalists who covered the nationwide demonstrations in June were injured or detained by state police. For example, during a protest in So Paulo on June 13, a reporter and a photographer were hit in the eyes with rubber bullets and seriously injured. Following this incident, the So Paulo military police internal affairs unit opened an investigation into the polices use of force against the journalists and federal authorities called on state governments to ensure their police forces provided special protection for members of the media.

Six journalists were killed in Brazil between January and November 2013. Two of the victims worked for the *Vale do Ao* newspaper in Minas Gerais state, where investigators concluded in August that police officers were involved in their killings. The officers implicated were subsequently detained and charged with aggravated homicide.

By November 2013, 16 out of 27 states had passed legislation to implement the federal access to information law that went into force in 2012. The law establishes that the public should have unfettered access to information regarding violations of fundamental rights.

Brazils criminal code prohibits abortion except in cases of rape or when necessary to save a womans life. In 2012, the Supreme Court expanded the exceptions to include cases of anencephaly, in which the fetus has a fatal congenital brain disorder. Women and girls who obtain an abortion outside of these exceptions may face sentences of up to three years in jail, while people who perform abortions face up to four years imprisonment.

In August 2013, President Rousseff signed into law a bill that requires public hospitals to provide comprehensive care for victims of sexual violence, including pregnancy prophylaxis for rape victims and information on the right to access abortion in cases where it is legal. Rousseff concurrently sent a draft law to Congress clarifying that pregnancy prophylaxis consists of emergency contraception.

The national Human Rights Ombudsman's Office received more than 3,000 complaints of violence against lesbian, gay, bisexual, and transgender (LGBT) persons in 2012, 166 percent more than in 2011, when the Ombudsmans Office began to track these complaints through a hotline service.

In March 2013, the newly elected president of the Commission for Human Rights and Minorities of the federal Chamber of Deputies, Pastor Marcos Feliciano, proposed a legislative bill that would partially suspend a resolution by the Federal Psychology Council prohibiting psychologists from treating homosexuality as a disorder. The bill was withdrawn from voting in July following extensive public criticism.

In May 2013, the National Council of Justice (CNJ) issued a resolution establishing that notaries who refuse to perform same-sex civil marriages or convert stable same-sex unions into marriages shall be referred to the judiciarys internal affairs unit for disciplinary action. The Supreme Court recognized equal rights for same-sex couples in 2011.

Federal government efforts to eradicate forced labor have resulted in more than 44,000 workers being freed from slave-like conditions since 1995, according to official data. However, the Pastoral Land Commission, a Catholic NGO, received complaints involving approximately 3,000 workers allegedly subject to forced labor in 2012. Criminal accountability for offending employers remains relatively rare.

In June 2013, the Constitution and Justice Commission in the Senate approved a constitutional amendment that would permit the government to confiscate properties where forced labor is used without providing compensation to the owners. Final approval will require a full Senate vote.

Brazil adopted a constitutional amendment in March 2013 that entitles the countrys estimated 6.5 million domestic workers to overtime pay, unemployment insurance, pension, a maximum 8-hour workday, and 44-hour work week.

Rural activists and indigenous leaders involved in conflicts over land continue to face threats and violence. According to the Pastoral Land Commission, 36 people involved in land conflicts were killed and 77 were victims of attempted murder throughout the country in 2012. Nearly 2,500 rural activists have received death threats over the past decade.

In May 2013, several members of the Terena indigenous group were wounded and one was fatally shot during a court-ordered eviction in the state of Mato Grosso do Sul. The National Indian Foundation (FUNAI) had designated the ranch as ancestral Terena land in 2010, but a state court ruled in 2012 that it belonged to a rancher. According to the Indigenous Missionary Council of the Catholic Church, 37 members of indigenous tribes were killed in Mato Grosso do Sul in 2012, the highest number of all Brazilian states.

In May 2012, a national truth commission began investigating the systematic human rights violations that occurred during military rule, from 1964 to 1985, which included extrajudicial killings, forced disappearances, torture, arbitrary detention, and the curtailment of free expression.

The perpetrators of these crimes have been shielded from justice by a 1979 amnesty law. In April 2010, the Brazilian Supreme Court reaffirmed lower courts interpretation that the amnesty barred most prosecutions of state agents for these cases. However, six months later, the Inter-American Court of Human Rights ruled that this interpretation violated Brazils obligations under international law, and that the amnesty should not be an obstacle to prosecuting serious human rights violations committed under military rule.

In April 2013, So Paulo prosecutors filed criminal charges against a retired army colonel and police investigator for concealing the body of a medical student killed during military rule. A federal judge determined in August that he will take this case to trial. In contrast, in June, a judge in Rio de Janeiro refused to try state agents for their alleged involvement in the forced disappearance of a journalist in 1970.

In March 2013, the UN Working Group on Arbitrary Detention expressed concern regarding prolonged periods of pretrial detention and the lack of adequate public legal assistance for detainees. In June, the UN special rapporteur on adequate housing called on local authorities to refrain from forced evictions as Brazil prepares to host the 2014 World Cup and 2016 Olympic Games and to comply with international guidelines when evictions are justified.

During a visit to Brazil in July, Pope Francis condemned unlawful police killings during a prayer with homeless children in Rio de Janeiro and urged state authorities and civil society to use dialogue as an alternative to selfish indifference and violent protest.

As a returning member to the Human Rights Council, Brazil maintained a positive voting record, supporting the adoption of resolutions on a number of critical human rights situations, including Iran and Sri Lanka. In June, for example, Brazil voted in favor of two resolutions addressing the deteriorating humanitarian situation in Syria and also approved the submission of the final report of the Independent Commission of Inquiry on Syria to the UN General Assembly. However, the Brazilian delegation significantly lowered its profile in the council proceedings and negotiations compared to its prominent engagement during its previous membership.

At the UN General Assembly, Brazil abstained from a resolution in May condemning violence in Syria and recognizing the opposition Syrian National Coalition as an effective representative interlocutor for a political transition. It also abstained in November from a resolution at the UN General Assembly Third Committee expressing concern regarding ongoing human rights violations in Iran such as torture and public executions. However, that same month Brazil supported a resolution calling on all parties in Syria to immediately end all violations and abuses of international human rights and humanitarian law.

In 2011, the Rousseff administration recalled its ambassador to the Organization of American States after the Inter-American Commission on Human Rights issued precautionary measures for Brazil due to an alleged failure to consult with indigenous groups prior to beginning the construction of the Belo Monte hydroelectric dam. Brazil has yet to restore the ambassador.

Following press reports in September that the United States and the United Kingdom carry out massive surveillance of Brazilian citizens, companies and political leaders, President Rousseff cancelled a state visit to the United States planned for October and announced in a speech to the UN General Assembly that Brazil would seek to play a leading role in the development of a global Internet governance mechanism to protect the right to privacy.

Previously, Brazil had expressed concern to UK authorities that a Brazilian citizen was detained for questioning at Heathrow Airport in London apparently in connection with US surveillance information leaked to the press by his partner. In November, Brazil and Germany proposed a UN General Assembly resolution calling on countries to take measures to end violations of the right to privacy and ensure effective oversight of state surveillance of communications and collection of personal data.

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